

**REPORT OF THE COMMITTEE
ON
URBAN LAND POLICY**



**MINISTRY OF HEALTH
GOVERNMENT OF INDIA**

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MINISTER,
LOCAL SELF-GOVERNMENT
WEST BENGAL
*Writers' Building
Calcutta
The 5th February 1965*

DEAR DR. SUSHILA NAYAR,

I have great pleasure in forwarding herewith the Report of the Committee on Urban Land Policy. This Committee was appointed by the Central Council of Local Self-Government and Town Planning Ministers Conference last year. I am grateful to them for having given me an opportunity to act in the Committee as Chairman. The Committee have reviewed the problem as realistically as possible.

You are, no doubt, aware that in view of the need for extensive industrial development to improve our economic conditions, it is inevitable that rapid urbanisation would take place increasing further the problem of the existing cities and towns. As a corollary to our development programmes it has, therefore, become necessary to prevent haphazard growth, development of slums and blight in cities and towns with a view to ensure economic growth of the country. The Committee examined the problem of Urban Land Policy in the above contexts and I feel sure that the recommendations will be found useful and acceptable.

I shall be failing in my duty if I did not make a mention of the keen interest taken by my other colleagues, particularly, Dr. Rafiq Zakaria, Minister for Urban Development, State of Maharashtra. All of them including their staff took a keen interest in arriving at equitable recommendations. We were fortunate in having Shri Dharma Vira, the then Chief Commissioner of Delhi, as one of the members of the Committee. His knowledge and experience of the urban problems was very useful. I must also express my thanks to the Secretary of the Committee, Shri Gian Prakash and Shri J. P. Sah, the Economic Planner of the Town and Country Planning Organisation, for their consistent hard work in connection with the collection of data and drafting of the Report.

DR. SUSHILA NAYAR,
*Minister of Health,
Government of India,
New Delhi.*

Yours sincerely,
Sd./- S. M. FAZLUR RAHMAN
Chairman of the Committee on Urban Land Policy

CHAPTER I

INTRODUCTION

1. In the context of the country's overall economic and industrial development and its likely repercussions on the process of urban development our Five Year Plans had rightly emphasised the urgent need for regional and urban planning. The Second, and more than that the Third Five Year Plan also recognised that it was essential to have an appropriate land policy without which all efforts at regional and urban planning were bound to be greatly frustrated. A number of measures to tackle the problem of land were, therefore, suggested in the Third Five Year Plan. This in itself marked a commendable advance in thinking on the problem. The Planning Commission's suggestions and recommendations were, of course, in the nature of broad suggestions and general directives.

2. The Town and Country Planning Organisation, which is an expert Central Government Organisation concerned with regional and urban planning had, it is understood, also been simultaneously working on the problem of land policy. After considering the problem in its different aspects this Organisation had put out a comprehensive 'Note On Urban Land Policy' for discussion in the Second Conference of State Ministers for Town & Country Planning held in Trivandrum in October, 1961.

3. The State Ministers' Conference, mentioned above, appreciated that the paper required detailed consideration and directed it to be circulated for comments to State Governments, Union Territories and Central Ministries. By the time the Third Conference of State Ministers for Town & Country Planning was held in Calcutta in November, 1961, no comments from the State Governments had been received. Nevertheless, the subject was placed on the agenda of the Conference which recommended that a Committee may be appointed to study the problem in all its aspects. However, the national emergency intervened and no Committee could be appointed.

4. The subject once again came up for discussion at the Joint Session of the Central Council of Local Self-Government and the Ministers for Town & Country Planning held in New Delhi in September, 1963. On this occasion the Conference had before it the comments from State Governments, Union Territories and expert organisations and individuals. Considering the great importance of the subject the Conference resolved, *vide* its Resolution No. 11, to revive the idea of appointing a Committee and the present Committee was accordingly set up. Its terms of reference as defined in the relevant resolution were—

“The Conference, having taken note of the different problems relating to urban land in developing towns, resolved that a Committee, constituted as below, may examine the problems of urban land policy in the light of the note prepared by the Town and Country Planning Organisation and the draft Model Land Acquisition Act and the note submitted by the

West Bengal Government and considered by the Conference in 1961, and submit its report by the beginning of January, 1964”.

5. The Committee consisted of the following :—

Chairman

1. Shri S. M. Fazlur Rahman, Minister for L.S.G., West Bengal.

Members

2. Shri S. M. A. Majid, Minister for Local Administration, Madras.
3. Dr. Rafiq Zakaria, Minister for Urban Development & Waqfs, Maharashtra.
4. Shri Prabodh Chandra, Minister for L.S.G., Punjab.
5. Shri Dharma Vira, I.C.S., Cabinet Secretary to the Government of India. Then Chief Commissioner, Delhi.
6. Shri H. C. Daga, Joint Secretary, Ministry of Law.
7. Shri S. Dutt, I.A.S., Joint Secretary, Ministry of Finance.

Member-Secretary

8. Shri Gian Prakash, I.A.S., Joint Secretary, Ministry of Health and Chairman, Town and Country Planning Organisation.

6. Soon after our appointment we set about our assignment. We began our work with the framing of a questionnaire (Appendix I) which was issued by the Ministry of Health on January 21, 1964, to all the State Governments, Union Territories, Housing Boards, Municipal Corporations, Municipalities of Class I cities and the Improvement Trusts. Replies to the questionnaire were invited by the 15th of February, 1964. As against over 300 questionnaires sent out, replies, in spite of reminders, have to date been received only from 4 State Governments, 3 Union Territories, 3 Municipal Corporations, 3 Housing Boards, 6 Municipalities, 7 Improvement Trusts and 15 Cantonments. We consider it a matter of regret that the response to a questionnaire on so vital a problem should have been so limited. This inadequate response has indeed been a serious handicap to us and we had, particularly in view of the short time available to us, to be content with the few replies now received and whatever comments had earlier been received by the Town and Country Planning Organisation from the State Governments and expert organisations.

7. On the basis of the material collected and analysed a paper was prepared and the same was considered in the course of three meetings held by the Committee on August 21 and 22 in New Delhi. In the light of the observations made and decisions taken therein a revised draft report was prepared which was considered by the Committee in two meetings held at Chandigarh on September 28 and 29, 1964. After detailed discussions on various points the Committee appointed a Drafting Sub-Committee, consisting of Dr. Rafiq Zakaria, Minister for Urban Development, Govt. of Maharashtra, Shri Dharma Vira, Chief Commissioner of Delhi, General D. N. Chakravarty, Secretary, Calcutta Metropolitan Planning Organisation and Shri Gian Prakash, Joint Secretary, Ministry of Health. The Sub-Committee held two meetings at Bombay on October 26 and 27, 1964 and finalised the Draft

Report. The full Committee met again at Calcutta on November 28, 1964 and finalised the Report.

8. We will be failing in our duty if we do not thank those State Governments, public authorities and individuals, who kindly commented on the paper or took pains in answering the long questionnaire sent to them. We also wish to express our high appreciation and thankfulness for assistance rendered to the Committee by the Town and Country Planning Organisation, without which it could have hardly been possible to complete this assignment within the time at our disposal.



CHAPTER II

BACKGROUND OF THE PROBLEM

1. Under our terms of reference we are expected to examine the problems of urban land policy in the light of the note prepared by the Town and Country Planning Organisation, the draft model Land Acquisition Act and West Bengal Government's note considered by the State Town Planning Ministers' Conference in 1961. In our deliberations we have very carefully considered these valuable documents.

2. Considering the great significance that attaches to the urban land problem and policy we wanted to have as much of detailed factual information on the subject as was possible to collect. Bearing in mind also that it is ultimately the development agencies like the Housing Boards, Improvement Trusts, Municipal Corporations and Municipalities, etc., who are already implementing or will have to implement urban land policy measures, we were very keen to have the reactions of such public authorities on this vital problem. We, therefore, framed a comprehensive questionnaire and widely circulated it among selected local bodies and development agencies. Besides questions on major policy issues mooted in Town and Country Planning Organisation's paper it contained many new questions on other related aspects also. An analysis of the few replies received in answer to our questionnaire is presented in Appendix II of this Report. We have taken these replies also into consideration in formulating our recommendations.

3. Before we set out our observations and recommendations on this rather difficult and complex subject we would like to present a few facts bearing on the vital problem of land particularly in the context of the urbanisation process in India. We consider this necessary so that the problem may be viewed in the proper perspective.

Declining Man-Land Ratio

4. Taking into account the total land resources including hills, mountains, plateaus and lands of all descriptions the per capita availability of land in India today is found to be only 1.84 acres, as compared to a per capita availability of 181.9 acres of land in Australia, 12.8 acres in U.S.A., 26.5 acres in U.S.S.R., 9.9 acres in Burma, 4.85 acres in China (Mainland), and 2.5 acres in Pakistan and Poland. It is evident that the per capita availability of land in India is comparatively very low.

5. Far more distressing is the fact that per capita availability of land has been rapidly going down from one Census year to the other. While in 1901 there were available 3.42 acres of land per head of population in our country, the growing population reduced this figure to 3.21 in 1921, 2.53 in 1941 and 2.23 in 1951. According to the Registrar General, India's population would be about 55.96 crores in 1971 and 69.49 crores in 1981. Since there is hardly any scope for increasing the total availability of land the obvious inference is that in 1971 there will be hardly 1.44 acres of land per head of population and in 1981 the figure will get further reduced to 1.16 acres.

6. The above per capita figures relate to the total land surface of the country and do not reflect the variations in land distribution as between the different regions within India. Out of the five zones into which the Census authorities have divided the country, in the three zones, viz., the Southern, the Eastern and the Central, the per capita availability of total land is 1.42, 1.47 and 1.71 acres respectively, i.e., less than the national average of 1.84 acres. These figures only reveal that man-land ratio is precarious over the major part of the country.

7. Since a considerable part of the total land surface is under mountains, hills, forests, etc., all the land cannot be available for agricultural purposes. On considering the cultivable land—which includes even culturable waste and fallow lands—and which alone is capable of growing food and fodder, we find that our country has at present about 1.1 acres of cultivable land per capita as against 1.2 acres in 1950–51. As population grows the per capita availability of cultivable land, the reclamation programme notwithstanding, will go on declining while the food requirements of the country as a whole will go on increasing over the years. This is a trend which cannot be viewed with complacency because it has serious implications for our food supply problem.

Urbanisation Trends

8. Looking at the process of urbanisation in the historical retrospect we find that while in the year 1901, 25.9 million persons or 10.9 per cent of India's total population resided in the urban areas, the number of urban dwellers according to the Census of 1961 was 78.8 million or 18.0 per cent of India's total population. An idea of the growth of urban population over the consecutive Census years may be had from the following figures :—

Urban and Rural Population of India (1901–61) with Percentage Variation Over the Decades

Year	Population in Millions						
	Popula- tion	Urban Population			Rural Population		
		Popula- tion	Percentage variation over the decade	% to total popula- tion	Popula- tion	Percentage variation over the decade	% to total popula- tion
1	2	3	4	5	6	7	8
1901	236.28	25.86	—	10.94	210.42	—	89.06
1911	252.12	26.05	0.75	10.33	226.07	7.44	89.67
1921	251.35	28.21	8.29	11.22	223.14	—1.30	88.78
1931	279.02	33.66	19.32	12.06	245.36	9.96	87.94
1941	318.70	44.70	32.80	14.03	274.00	11.67	85.97
1951	361.13	62.28	39.32	17.24	298.85	9.07	82.76
*1961	438.01	78.84	26.59	17.97	359.77	20.38	82.03

*1961 figures exclude the population of Goa, Daman and Diu, as the rural-urban break-up of population there is not available. The total population of India including Goa, Daman and Diu is 439.24 millions (1961).

9. It may be noted that the urban population has increased during the last 60 years by 200 per cent. The increase in urban population has been more than twice as fast as that of the general population and three times that of the rural population. Since 1941 the urbanisation process has become more pronounced. The ratio of urban population to total population which in 1931 stood at about 12 per cent shot up to about 14 per cent in 1941 and stands at nearly 18.0 per cent according to the 1961 census. The total number of cities and towns in India which was 1910 at the beginning of the century and 2050 in 1921 went up to 3057 in 1951. The 1961 census places this figure at 2690. This reduction in the total number of urban areas is not because some urban areas have now disappeared but it is mainly because of a stricter definition of 'urban' employed in the 1961 census. If the 640 declassified places are taken into account the number of our urban areas should be more than what it was in 1951. As against 27 class I cities in 1901, 28 in 1921 and 49 in 1941 we have today 107 class I cities, *i.e.*, cities with more than 1 lakh population, comprising 35 million persons or about 44 per cent of the total urban population of India. Thus out of every 10 urban dwellers 4.4 reside in class I cities. It is also significant that while the urban population as a whole increased by 174 per cent between 1921-61, the increase of population in class I cities during the same period was 400 per cent. This clearly denotes the lopsided distribution of population as between the urban areas of varying status and the degree of concentration and congestion in the well-established major urban areas. Such a situation is obviously undesirable and is not conducive to balanced urban development in the country.

Living Conditions in Urban Areas

10. Most of the urban areas in our country, particularly the ten largest metropolitan cities, present a very pathetic picture of congestion, over-crowding, slums and blight. At the same time within a large number of urban areas the utilisation of land is extremely inequitable with extreme over-crowding in the old or central areas and low densities in some other parts. In Calcutta about 800 persons live in each acre in some congested areas as against 13 persons per acre in other areas. In Bombay less than 0.5 per cent areas have densities over 800 persons per acre while in 45.3 per cent of the city's areas densities range from 0 to 100 persons per acre. As regards water supply and sewerage the National Water Supply and Sanitation Committee, 1960-61 appointed by the Union Health Ministry found that 246 urban areas had adequate and 435 had partial water supply. Only 76 cities and towns were provided with sewerage, full or partial. When this Committee submitted its Report 202 new schemes and 246 schemes for the improvement of existing water supply and 51 new schemes for sewerage and 43 for its improvement were in progress. Even assuming that all the schemes would have materialised by now, not more than 35 per cent of the urban areas of India have adequate or partial water supply and about 5 to 6 per cent have sewerage systems, full or partial.

11. Housing conditions in the urban areas, particularly in the large metropolises like Calcutta, Bombay and Delhi are extremely depressing. According to the Census of 1961, over 71 per cent of the houses in Bombay and Calcutta are one-room tenements.

The housing situation is further aggravated by lack of community facilities and public utilities. According to the surveys sponsored by the Research Programmes Committee of the Planning Commission, in 20 cities having a population of more than one lakh, on an average only 25 per cent to 45 per cent of the families have water supply in their houses, and only 30 per cent have independent latrines. In Calcutta in some areas one latrine is shared by as many as 30 to 50 persons. It is estimated that in cities having more than 5 lakhs of population, thirty per cent of the population lives in "bustees" and slums. It has also been estimated that the number of pavement dwellers in Bombay, Calcutta and Madras runs into several lakhs.

12. In cities with a population ranging from 2 to 10 lakhs a very substantial number of families and tenements are not supplied with electric current. In Baroda, Gorakhpur, Hyderabad, Kanpur, Jamshedpur, Bombay and Calcutta 60 to 70 per cent of the houses have no open space attached to them. In most of the cities drainage facilities are far from adequate and open drains sometimes flow close to houses and wells thus becoming a source of danger to public health. In Hyderabad 72.4 per cent of the residents do not have any drainage connections to sewers while in Kanpur and Lucknow 30.8 per cent and 45 per cent respectively have drains connected to sewers.

13. In the big cities where the people have to travel long distances to reach their work places and homes, the media of mass transit are thoroughly overstrained and on the roads there is so much congestion that traffic can hardly move during peak hours. In the matter of educational, health and recreational facilities also the urban areas are woefully deficient and in all cities and towns there are huge backlogs in these services. In brief, it may be said that unplanned and unbalanced urbanisation has been largely responsible for such deplorable state of the urban living conditions. All these deficiencies have to be removed and better living conditions have to be provided at the earliest. Any attempt to do so is bound to have repercussions on the problems of land, its acquisition, development and distribution.

Urbanisation and the Urban Land Problem

14. We have referred to the process of urbanisation because urban development does, by and large, change the character of land from agricultural to non-agricultural use and of the population affected in the process from rural to urban. At the same time we cannot be oblivious to the fact that the process of urbanisation has an element of inevitability about it being largely a direct consequence of economic and industrial development. Industrialisation and consequent urbanisation leads to progressive decrease in dependence on agriculture which is in the interest of economic development of the country. To this extent urbanisation may be considered a progressive and desirable development provided it does not take place in the present chaotic manner.

15. For urbanisation to be really conducive to economic development and human welfare, it must be well planned and well directed. This pre-supposes that the question of urbanisation policy will be intimately and rationally linked with the industrial and other investment decisions and the location of industries, etc. The planning and

direction of urbanisation process will, therefore, have to be in accordance with the pattern of urban development outlined by the National Planning Commission and the State Governments in their Five-Year Plans. We regret that the problem has not so far received adequate attention and very little has been done to tackle it in a realistic and coordinated manner. Our National Plans have laid great emphasis on rural development programmes but even in the Third Five-Year Plan there were hardly any schemes for the regulated and controlled growth and development of towns with a view to promote better and healthier community living. With accelerated economic development and consequent urbanisation, the problem of towns is becoming more and more acute and unless it is now tackled boldly we feel it will become increasingly difficult and more expensive with the lapse of time. We, therefore, urge the Planning Commission and the State Governments to lay down in the Fourth Five-Year Plan in clear terms the policies towards the process of urbanisation and urban development and provide adequate funds for the schemes of land acquisition and development; slum clearance and improvement; water-supply, sewerage and drainage; provision of scientific sanitary facilities including mechanised system of rubbish removal and composting; clearance of backlogs in education and public health; widening of roads and removal of traffic jams; provision of open spaces, parks and recreational facilities with a view to make the life of the people in the cities and towns livable.

16. If a measure of urbanisation is inevitable or desirable the conversion of some land from agricultural to non-agricultural use cannot be helped. On the other hand, utmost care would have to be taken to see that the urbanised land is put to optimum use. According to an authoritative estimate the urban population of India in 1981 may be about 20 crores. If this forecast is correct it will mean an additional urban population of 12.1 crores by 1981. Assuming the land requirement for this additional population at an overall average density of 40 persons per acre, additional land to the extent of 3.03 million acres will be required for urban use by 1981. This much land could produce foodgrains at the 1961 productivity level and per capita consumption to suffice for about 52 lakh persons for one year.

CHAPTER III

NEED FOR A LONG-TERM URBAN LAND POLICY

1. The facts about the declining man-land ratio, the pitiable urban conditions and the urbanisation perspective make it absolutely clear that a comprehensive long range urban land policy is imperative for India today. Such a policy is also urgently needed to ensure that slums and blight not only do not multiply but are also cleared within a decade or two; congestion not only does not worsen but is gradually removed; backlogs in services and facilities not only do not mount up but are done away with and the housing situation not only does not deteriorate but is brought under control. To tackle these problems effectively planned development of the urban and the rural areas is necessary. But without an effective urban land policy planned development of the urban and the rural areas is quite inconceivable so also the achievement of many a social objective which the country has set before it.

2. While a long range urban land policy based on sound general principles is essential and desirable we must at the same time appreciate that the emphasis on the various objectives to be achieved or purposes intended to be served will vary from place to place and time to time. So also will vary the methods and techniques employed by the public authorities in different places depending upon the special circumstances and situations to be tackled. Thus, for example, in towns and cities which are of strategic importance, *e.g.*, Cantonments, the defence point of view will have to be given precedence over all other considerations. In the case of the hill towns the activities may have to be so organised that they become focal centres for the development of the entire hill areas. In pilgrim centres, where thousands and lakhs of pilgrims come from various parts of the country the development programmes may have to give greater attention to adequate residential accommodation, water supply and sanitation, hospitals and other community facilities. In the case of important tourist centres emphasis will have to be laid on creation of beauty and landscape and provision of open spaces for enjoyment apart from other community and residential facilities. In metropolitan areas, where the problems have become gigantic and complex because of lopsided and unbalanced development, the approach and intensity of the measures required to deal with the questions relating to the reduction of overall densities through decentralisation and dispersal of industry, commerce and even administration will have to be different from those adopted in other urban areas where the situation is different. Here the programmes may, for example, have to aim at eradication of congestion and over-crowding and dispersal of population, offices, workshops and factories. The various measures, methods and techniques in all such cases will have to take cognizance of the special circumstances and situations in each area and will have to be woven into the texture of the overall development programmes and policies laid down in the Five Year Plans for these places.

3. We, however, feel sorry to observe that our country does not yet have a clear urban land policy. The existing legislation concerning the control, regulation and compulsory acquisition of land is far too inadequate in the context of India's

changed social setting. None of the existing legislative enactments has, as the Note of the Town and Country Planning Organisation rightly stresses, been conceived as a coordinated instrument to serve the different facets of a broader social policy. The existing legislation on urban land is mainly pre-occupied with compulsory acquisition of land. This, in our opinion, is quite an imbalanced placement of emphasis. We have, no doubt, in our mind that a long-term urban land policy means many more things than merely the acquisition of land. Any blue-print on urban land policy must, therefore, necessarily cover the multifarious aspects of the problem of urban land in their entirety and find lasting satisfactory solutions for them. This would naturally imply a series of coordinated measures—legislative, administrative, financial and planning—to take care of the various aspects of the problem.



CHAPTER IV

SOCIAL OBJECTIVES OF URBAN LAND POLICY

1. A long-term policy on any subject has to base itself on the fullest consideration of the long-term social objectives sought to be achieved through the policy under consideration. We note that the paper prepared by the Town and Country Planning Organisation lays down four principal social objectives of urban land policy. These inter-related objectives are to :—

- (a) Achieve an optimum social use of urban land.
- (b) Make land available in adequate quantity, at the right time and for reasonable prices to both the public authorities and the individuals.
- (c) Encourage cooperative community effort and *bonafide* individual builders in the field of land development, housing and construction.
- (d) Prevent concentration of land ownership in few private hands and safeguard specially the interest of the poor and under-privileged sections of urban society.

2. As our approach to the urban land problem and the measures we have suggested to tackle the same are inspired by these social objectives, it would seem necessary for us to indicate what the important implications of these social objectives are. The first objective, viz., optimum social use of urban land, would not be achieved if there is over-crowding, congestion, slums and blight, wrong locations, wastage of land, absence or inadequacy of community facilities, compulsions of long distance communications and traffic bottle-necks and hazards. Optimum social use of land in reference to the thickly developed and highly congested, over-crowded urban areas will, *inter-alia*, be achieved when the densities of population are brought down to desirable norms keeping in view the requirements of the people as well as the standards of civic amenities. On the other hand, in areas where land is under-utilised it will imply making more intensive use of land.

3. The only known method of organising the land use in the socially desirable optimum manner is that of regional and urban land use planning. Land use planning even when it is focussed on a particular urban area must be regional. This is so because from the development point of view each community is related in regard to economic, physical and social factors. Development at the local level quite often calls for coordination at the regional and, sometimes, at the National level also. Regional planning also becomes necessary because the administrative limits of the urban areas may not always be quite rational from the point of view of planning. The formal city limits may not be co-terminus with areas of socio-economic and cultural interaction between a given urban centre and its outlying area surrounding it or region within which it subsists. Scientific planning would comprehend those interactivity areas and the regional hierarchies rather than be confined to the formal city

limits. Integrated economic, social and physical development of total resources of an area through regional planning would offer an approach that may prevent undesirable social effects of urbanisation and permit industrialisation without the growth of huge unmanageable urban centres and the slum areas. We need hardly mention that the regional and urban plans we envisaged should be formulated within the overall framework of the National and State Five Year Plan policies, objectives and targets.

4. In this context we may mention that the Third Five-Year Plan has stated that the broad objective in the field of urban planning and land policy must be to secure "balanced development between large, medium-sized and small industries, and between rural and urban areas. While this is by no means easy to realise, the main ingredients of developmental policy are the following :—

- (i) As far as possible, new industries should be established away from large and congested cities.
- (ii) In the planning of large industries, the concept of region should be adopted. In each case, planning should extend beyond the immediate environs to a larger area for whose development the new industry would serve as a major focal point.
- (iii) In community development projects or other areas within a district, the rural and urban components of development should be knit into a composite plan based in each case on schemes for strengthening economic inter-dependence between towns and the surrounding rural areas.
- (iv) Within each rural area the effort should be to secure a diversified occupational pattern in place of the present extreme dependence on agriculture".

The above policy directions of our Third Five-Year Plan can be given concrete shape only through the preparation, enforcement and implementation of comprehensive regional plans.

5. The definition of "urban land" implicit in our approach conceives urban land in a broad and dynamic sense—as something which widens and expands or shrinks depending on circumstances. That is why the classification of urban land as made by us subsequently includes land within the urbanisable limits. This broad definition of urban land also necessitates that in urban planning the concept to be adapted is regional. The regional planning concept is especially significant in the case of big metropolises and major urban or industrial centres like Bombay, Calcutta, Delhi, Madras and Ahmedabad where the solutions of the urban problems may not be possible within or near about the cities but may lie in creating foci of growth in regions where migration originates. It may also lie in planning and establishing self-contained communities or "ring towns" or "satellites" which do not only act as "counter-magnets" to deflect the tide of metropolis-bound migration but also help in reducing the existing congestion and over-crowding in the most thickly populated areas of big cities. This would be possible if the counter-magnets or "satellites" are

made more attractive by providing in them better and cheaper housing and living facilities, more healthy and congenial atmosphere and adequate employment opportunities. The problems of over-concentration and unbalanced urban development have been successfully tackled in the U.K. through the establishment of 15 new towns developed by the "Development Corporations" set up for the purpose. The construction of these self-contained new townships has also led to considerable economies in the construction of roads, sewers and other public utilities.

6. The second, third and the fourth social objective considered together aim at solving the problem of land shortage and of high urban land values. The fulfilment of these social objectives would imply many a question of policy. In the first instance, it would require a policy of effective public control over land particularly through large scale public acquisition of land. Secondly, a compensation policy which is rational and equitable to both the individual and the public authorities would be needed. Without these land cannot be made available to the individual or the public authorities in the right quantity, at the appropriate time nor at reasonable prices. Breaking the strangle-hold of speculation in land through anti-speculation measures, positive encouragement to *bonafide* individual builders and cooperatives and specially sympathetic treatment to the poorer and vulnerable sections of society—all these also are some major implications of these objectives.

7. We find ourselves in full agreement with these social objectives as they are quite consistent with planning principles, national planning goals and the national objectives of a socialist pattern of society. While these social objectives are unexceptionable and must be pursued vigorously we may suggest that in pursuing them utmost effort should be made to finance, as far as possible, the urban development and improvement programmes out of the urban land resources themselves. In other words, the public authorities would be well advised to pursue sound financial methods and price policies in the disposal of land so that financial resources are created for furthering urban development. In this approach a proper balance would have to be struck between land disposed off through allotment at low prices and that put on auction at competitive prices. This suggestion gains strength from the consideration that urban development would generally entail huge financial outlays which are not readily available. When we speak of urban development we do not just refer to new developments only but include in this concept urban improvement also. The need for improvement in the congested urban cores is as pressing as it is costly. It is in these places that decay has set in and the land is not put to optimum social use. It has, nevertheless, to be tackled and this matter brooks no delay. If urban development in this wide sense of the term has not to be delayed and deferred, finances have to be found for the same. In some cases substantial financial assistance may have to be provided by the Central and State Governments. It will still be necessary to raise financial resources through proper management, development and disposal of land. In the Chapter dealing with the development and disposal of land, we have considered some suggestions as to how through prudent practices surpluses can be created which can be ploughed back for meeting at least part of the cost of urban improvement schemes.

CHAPTER V

CLASSIFICATION OF URBAN LAND

1. We appreciate that urban land is not a homogeneous mass but 'a heterogeneous structure comprising lands of various descriptions' and any discussion on urban land policy will not lead to satisfactory results unless the subtle or perceptible distinctions in the various categories of urban land are recognised and identified. In other words, a proper classification of urban land becomes necessary as the nature of problems present in each distinct category of urban land is bound to be different. The nature and intensity of the problems being different in different categories of land, the solutions for them should also vary. In this context the classification of urban land into the following four broad categories has much to commend itself :—

- (i) Developed Urban Land, *i.e.*, land within the city limits which is developed and largely built upon. There may be some vacant plots here and there within the compact built up area. These vacant sites would also fall in this category.
- (ii) Undeveloped Urban Land, *i.e.*, land within the city limits at any point of time which is not yet developed and built upon.
- (iii) Land Within the Urbanisable Limits, *i.e.*, land presently agricultural or un-urbanised but likely to get urbanised within the next 10 or 15 years.
- (iv) Land Beyond the Urbanisable Limits. This would naturally be purely rural land and the greater its distance from the city limits the lesser would it be subject to the forces of rural urban interaction.

To this classification we suggest the addition of another category, *viz.*—

- (v) Land the use of which is frozen as green belt or for agricultural purposes and also land which is reserved for community use.

We appreciate that the type of land we have placed in the fifth category may be present in categories (i), (ii) and (iii) and yet we treat it as separate and distinct because this type of land has its own significance and the problems it raises are somewhat different than those met in other categories of land and call for special attention.

2. The above classification of urban land, as mentioned earlier, has been made to identify the problems faced in the different categories of urban land and to devise measures which are not only appropriate in themselves but also in relation to other measures for other land categories. Only then will the co-ordinated operation of all the measures maintain a desirable balance of social equity as between the different urban land categories. Some of the measures which have been envisaged apply to practically all the above categories of land while some measures are specifically applicable to a particular category. Among the measures of the former type may be mentioned (i) Preparation, enforcement and implementation of master plans, zoning regulations and sub-division regulations; (ii) Public acquisition of land; and (iii) mopping up of unearned increments in land and property values. The specific measures are too many to be enumerated here. However, a detailed discussion on the measures of general or specific applicability follows in this report in the relevant context.

CHAPTER VI

MEASURES FOR DEVELOPED URBAN LAND

1. In developed urban land, *i.e.*, land within the city limits which is developed and largely built-upon the major problems to be faced are : congestion and over-crowding, blight and slums, non-conforming uses, lack of civic services and community facilities, rising land prices and growing unearned increments. There may also be in this category land which is not fully utilised or is under-utilised. Quite often this land is very valuable. A major problem in this specific situation is how to put such under-utilised land to optimum use. The measures required to tackle the first four types of problems are master plans, zoning regulations and effective enforcement of municipal bye-laws. The problem of under-utilisation of land leads us to the need to have urban renewal schemes.

Land Use Planning

2. It is a pity that in a country which has advanced in the field of national economic planning, regional and urban land use planning should still be in a very nascent stage. We need hardly emphasise that the preparation of comprehensive regional and urban plans and programmes is a task deserving very high priority if urban development has to be guided, as it must be, along right lines. Regional and/or urban master plans prepared with comprehension in approach and thoroughness in details and implemented with undaunted determination are the best guarantee to ensure optimum use of the scarce land resources of the nation. These are also the best means to make the urban areas more healthy, comfortable and functionally efficient entities. The prevention of slums, blight, over-crowding and traffic bottle-necks also is possible through them. We would, therefore, strongly recommend that the State Governments strengthen their Town Planning Departments and have Master Plans prepared at the earliest for all their growing urban areas. Where the preparation of Master Plans is likely to take time, interim or outline development plans should at least be prepared urgently to control the worsening of the urban land use situation. The State Governments will, of course, be well advised to seek the technical assistance of Town and Country Planning Organisation in this matter. We recommend that the Union Government extend liberal financial help to the State Governments and Local Authorities not only for the preparation but also for the implementation of Master Plans. In the absence of adequate assistance from the Central and State Governments it will not be possible for the Local Authorities to tackle effectively the problems of urban improvement, sanitation, roads, civic amenities and provision of community facilities, etc., which are woefully lacking in most of the cities. The problem of urban development is important not only from the point of view of health and efficiency of the people living in the cities but also because it affects the economic development of the country. For the State Governments to be able to prepare, and more important than that enforce and implement the regional/urban land use plans it is very necessary that they have a town planning law which is based on modern scientific concepts of planning. It should, *inter alia*, enable the preparation and enforcement of regional plans. We would,

therefore, suggest that those States which do not yet have an up-to-date Town Planning Act for their States should expeditiously enact such a law. Plans without the sanction of law behind them will remain plans on paper only.

3. A serious bottle-neck that stands in the way of many State Governments having the requisite number of land use plans prepared is the great paucity of trained, qualified and experienced town planning personnel in the country. In order to enable the State Governments and local authorities to plan their cities and regions it is necessary to provide sufficiently large number of town planners which calls for increase in the facilities for training. We, however, are glad to note that the question of expanding training facilities for planning personnel has been receiving the attention of the Ministries of Health and Education. The All India Council of Technical Education has already examined the problem of planning personnel and recommended the setting up of three additional Institutes at Bombay, Madras and Calcutta for the training of town planning personnel. Even the implementation of these limited projects does not seem to be making much headway. We would, therefore, emphasise that while it is important to complete the above projects expeditiously, it is equally necessary to further expand the training facilities. We recommend that the Central Government should establish a number of regional institutions for the training of town planners in the country. Wherever the Central Government are unable to establish such institutions themselves, they should offer generous financial assistance to the States for the purpose. There is need also to improve the quality of training imparted to the students of town planning courses. We are constrained to observe that most of the so-called "Master Plans" prepared in our country are mere land use plans and remain vague proposals because they are not turned into phased physical and financial programmes based on well considered priorities. In order to be really useful, the Plans have to be scientific, realistic and practical. The implementation aspects of the Plans should be given adequate emphasis in the training imparted to Town Planners.

City Development Plans (Programme)

4. The preparation of master plans is not the panacea of all the ills of the urban areas. More important than the preparation of plans is their implementation. One of the best methods to ensure that the master plans are implemented is to prepare simultaneously with the land use plan a capital improvement programme and a fiscal plan. The capital improvement programme or fiscal programme can be evolved into or integrated with the city development plan (programme) envisaged by the Planning Commission. The city development plan (programme) will present not only the programmes to be undertaken during the plan period based on pre-determined priorities but also present the cost and revenue estimates and the agencies which will be responsible for implementing each individual programme.

5. To a large extent projects, programmes or schemes which figure in the city development plan (programme) will relate to some Government department or public authority and the resources for implementing the particular programme will come from the budget of the concerned department. Thus, for example, the education department would provide finance for, say, construction and maintenance of higher secondary schools and the medical department may provide the budget allocations for the

construction of hospitals and health centres. In this manner not only will the master plan programmes get implemented but the problem of financing urban development would be considerably relieved. These plans should, as Planning Commission also desires, be integrated in an organic way with the State Five Year Plans.

6. We would, at this point, also state that even when there is no master plan, urban development does take place and various schemes like the one for the provision or augmentation of water and power supply, construction or widening of roads and establishment of schools, dispensaries, etc., are undertaken. Such schemes of development or improvement are conceived and executed in a haphazard *ad hoc* manner without proper coordination and perspective. Quite often the services and community facilities so provided very soon prove inadequate in the face of the increase in urban population and once again the public authorities are compelled to spend money on schemes and measures to meet the shortages. In the long run, such haphazard, *ad hoc* schemes, whose total actual expenditure is quite considerable, prove much more costly and wasteful than is the case if the same services and facilities were provided as an integral part of a comprehensive plan. Considered in this light the preparation and implementation of urban development schemes as an integral part of a master plan would economise in costs, lead to timely coordinated action and prove much more efficient. We, therefore, very strongly recommend that the State Governments issue necessary directives to their town planning, local self government and planning departments to prepare city development plans for every urban area and particularly that for which a master plan has been prepared. We understand that the Town and Country Planning Organisation of the Union Health Ministry is actively collaborating in the preparation of City Development Plans for three cities, namely, Jaipur, Agra and Meerut with a view to evolve a suitable methodology. The State Governments may very well benefit from the experience gained by this Organisation on this subject.

Zoning and Sub-Division Regulations and Municipal Bye-laws

7. Zoning and sub-division regulations which provide an effective remedy against blight, non-conforming use, high densities and congestion are not in vogue in this country. We, therefore, think it necessary to explain briefly their nature, purpose and usefulness as a tool of urban land policy. The zoning regulations enable the division of a city, town or any planning area into a number of "use-zones". For each zone certain uses are permitted and certain others are not permitted. In an area zoned as "residential", the establishment of a manufacturing unit may not be permitted while a nursing home may well be allowed. Thus within each zone "compatibility of uses" is maintained. For each use there are detailed regulations governing plot coverage, set-backs, floor area ratios and parking requirements. After an area has been zoned some existing uses become incompatible or "non-conforming". The non-conforming uses are made to shift. The obnoxious uses are shifted at the earliest opportunity whereas other non-conforming uses are allowed varying time limits depending upon the nature and extent of non-conformance.

8. The sub-division regulations control the parcelling or sub-division of land with a view to ensure minimum plot sizes and road widths, etc. Both the zoning and sub-division regulations differ from the municipal bye-laws inasmuch as the former

aim to control over large areas the uses of land and the sub-division thereof the latter are pre-occupied with a specific building unit and the standard of sanitation, safety, and structural stability thereof. It is thus obvious that the building bye-laws are based on a very limited concept and are ineffectual in the matter of controlling the use to which a particular building may be put. For example, a building permitted in accordance with municipal building bye-laws as a residential building may subsequently be changed into a commercial use or a shop may be used as an auto-repairing unit or a smoke-emitting bakery. While building bye-laws can hardly prevent this, zoning regulations would enable this and prevent areas from getting blighted through non-conforming or noxious uses. We would, therefore, like to recommend that the State Governments and their town planning organisations give serious thought to evolving zoning and sub-division regulations and making them applicable within the jurisdiction of all urban local bodies. In this connection we would wish to draw attention to the draft zoning regulations evolved by the Town & Country Planning Organisation and also to the zoning provisions forming an integral part of the Master Plan for Delhi. These pioneering works could well form the basis for the State Governments to start with such adaptations therein which they may consider necessary in the light of their special local conditions. The assistance of the Town & Country Planning Organisation in this task would be available to the State Governments and we hope that the latter will make good use of the same.

9. The zoning and sub-division regulations can be enforced even when there is no master plan. In fact there are in the U.S.A. a number of cities which have zoning laws but no master plans. But if a master plan exists, as it must as soon as feasible, the zoning and sub-divisions regulations become an integral part of it. Secondly, these regulations and the municipal building bye-laws are basically consistent with each other and both can be good supplements of each other. A difficulty may, however, arise if any provisions of municipal bye-laws and zoning regulations are not compatible. This difficulty could be resolved by revising the municipal bye-laws suitably. The Town Planning Acts should also include a provision that the municipal bye-laws must conform with zoning and sub-division regulations. The State Town Planning Departments should assist the local bodies in having the municipal bye-laws revised suitably.

10. While there is need to enforce zoning and sub-division regulations there is in an equal measure need to bring the building bye-laws more up-to-date because in most instances these are out-dated and inadequate and some times they may not go hand in hand with the standards laid down in the master plans. We suggest that the State Governments, appoint expert committees to revise the Municipal building bye-laws to make them suitable to meet modern requirements and to ensure that they lend support to Master Plans and zoning regulations.

Municipal Licensing

11. Quite related in this context is the suggestion about making the system of municipal licensing so extensive that it comprehends every viable unit of trade, business or industry within the jurisdiction of an urban local body. We find that municipal licensing is at present confined to the sale of fruits, vegetables and food stuffs

or to a few trades, business or industries which are considered 'offensive and dangerous'. Municipal regulatory control thus extends only over a few trades, businesses or industries. If, on the other hand, the list of licensed units is suitably enlarged the municipalities would gain sufficient regulatory control over a larger number of industrial, trading or business establishments. We may mention here that the Delhi Municipal Corporation Act provides for licensing of over 200 trades, industries and professions. Bombay Municipal Corporation also has almost similar licensing powers available to it. While granting licenses to any particular trade, business or industry the municipal authorities can always stipulate necessary conditions subject to which the license would be granted or they can even refuse a license on reasonable grounds. We, therefore, feel that there is a good deal of merit in the suggestion that municipal licensing system should be made comprehensive so as to cover, as far as possible, every viable unit of trade, business and industry located within the municipal jurisdiction. Comprehensive municipal licensing system would be particularly useful in controlling the location of industrial units in the urban areas. It is common knowledge that small industrial units, not being licenseable either under the Industries Development and Regulation Act or the Factories Act, are practically free from governmental controls and regulations. The number of such units is generally very large in every urban area particularly the big cities. From their small beginnings these units grow into bigger ones and cause considerable nuisance and blight in the areas where they exist. In the absence of any other controls on these units municipal licensing would be the best and the most effective method to control the establishment and location of these small industrial establishments in the urban areas.

12. A good comprehensive municipal licensing system would through the exercise of licensing powers help prevent blight and slums, aid the enforcement of land use plans and give greater regulatory powers. Such licensing power will be like the second string to the bow so far as the implementation of the land use plans is considered. Implementation of this suggestion may need amendment of the municipal acts. It will be useful for the local bodies to assume powers to grant or refuse permission to carry on any trade, industry or business in any particular area not only on grounds of health and convenience of the people but also on grounds of incompatibility with zoning and sub-division regulations and land use plans. Once municipal Acts permit comprehensive licensing, suitable municipal bye-laws could be framed to enable local bodies to administer municipal licensing accordingly. In evolving and enforcing such a licensing system the urban local bodies should establish close coordination with the authorities administering the Shops and Commercial Establishment Act, the Factories Act and the Sales and Excise Taxes.

Improvement of Conditions in Congested Urban Cores

13. The enforcement of land use plans, zoning regulations or building bye-laws alone is not enough and something more positive has to be done to effectively meet the challenging problems of over-crowding, insanitation, slums, blight, non-conforming uses and sub-standard development in the urban areas. Such congested areas in the cities and towns do not only contain a vast majority of the city dwellers—most

of whom are men of very modest means—but in many of them is also to be found the concentration of economic and social activity as, for example, in the Chandni Chowk area of Delhi or the Nāgpara and Kamatipura area of Bombay. It is thus human and economic aspect which makes the congested areas defy all solutions. To tackle these problems three alternatives may be considered, viz., (1) wholesale demolition and thorough re-development of large areas infected with congestion, over-crowding, blight and slums; (2) a programme of selective urban renewal; and (3) a programme of gradual improvement over large areas. The fourth measure, viz., that of setting up satellite towns or counter-magnets, has already been discussed in this Report.

14. The first alternative, namely, wholesale demolition and re-development of large built up areas, particularly those which are historically old like the walled city of Delhi, Kalba Devi of Bombay or Bara Bazar of Calcutta, will mean sudden displacement of thousands of families and their rehabilitation at any other place would confront the public authorities with administrative and economic problems of stupendous magnitude. Such a scheme will not be acceptable because it involves the human problem of dislocating a large number of people. Among other things, any such move even on a modest scale is greatly hampered by the rent control laws. The people now living in the congested, sub-standard and old areas are generally paying very low controlled rents and are very near to their work places. If they have to move to new houses the rents thereof are likely to be many times more. The prospect of rent liability and cost of commutation increasing considerably as a result of any scheme of relocation of housing is responsible for causing stiff opposition and resistance to any programme of re-development. The public authorities are very sensitive about putting their hands virtually in a hornets' nest. Any drastic redevelopment programme in such areas is, therefore, practically out of the question even in smaller cities and towns not to say of places like Bombay, Calcutta, Delhi and Madras. This incidentally is the view of a large number of public authorities also who have replied to our questionnaire.

15. As regards the second alternative, namely, undertaking a selective programme of urban renewal, we do appreciate that urban renewal is a good comprehensive concept. Unlike the slum clearance scheme, urban renewal aims not only at clearing the urban communities of slums and blighted areas but redeveloping the cleared areas and relocating the people and activities affected in the process. Urban renewal also aims at conserving the existing good areas and rehabilitating those which do not require wholesale clearing off. Under this programme the present thoroughly decayed or deteriorated urban areas, particularly in the old but central parts of the cities and towns—where there are slums or shacks or kutcha workshops—could be cleared off and redeveloped to their optimum capacity. Instead of slums or shacks or blighted workshops a few multi-storeyed commercial or residential buildings could come up leaving at the same time sufficient room for roads, open spaces and parking facilities. This could enable the land to be used many times more usefully practically without any extra expenditure on provisions of civic services and other facilities. In those situations where the cleared areas were having, prior to undertaking this programme,

low densities or under-utilisation of land, the redeveloped residential buildings could accommodate or the new commercial offices could provide employment to much larger number of persons. This would help in easing pressure on land elsewhere and also to some extent in obviating the need for transport facilities to and from distant places. In this manner new economic activities would be created and urban local bodies would gain considerably through increased property and other municipal taxes. On the other hand there may be instances where the cleared areas were having very high densities of population as for example in Bombay, Calcutta, Delhi, Ahmedabad and Kanpur. Urban renewal programme in the context of the over-crowded areas of such big cities should be instrumental in reducing the densities of the hitherto over-crowded areas and making available the much needed open spaces like tot-lots, parks and parking places.

16. While we are optimistic about the results of the urban renewal or redevelopment programmes we cannot help but observe that urban renewal has not so far been tried in India. We are inclined to suggest that it may be a good idea to try the programme of urban renewal on a pilot basis in some selected urban areas. Preference in urban renewal projects should, in the first instance, be given to the presently underutilised but potentially valuable pockets of land in cities and towns. By doing so, these projects, in many cases, are likely to yield substantial financial returns with which other urban development and improvement activities can be financed. The chance of success of this programme will to a large extent depend upon the nature of the area selected for urban renewal. Any area which has the potential of being developed from the existing non-profitable uses to more profitable uses like commercial or a mixture of commercial-cum-residential should have fair chances of succeeding financially and administratively. Where urban renewal is tried it should be done as an integrated part of the land use plan and city development plan (programme) mentioned earlier. The Union Government should give reasonable financial assistance to the concerned State Governments for approved urban renewal projects.

17. The third alternative, viz., a programme of gradual but steady improvement of the congested areas, has significance for most of the urban areas of our country, especially the metropolitan cities where most parts are thoroughly congested and awfully over-crowded. This alternative envisages undertaking measures to tone up the environment with the least possible dislocation of people and activities. The measures here would include provision of water taps and drains, minimum necessary street pattern, street lighting, open spaces and community facilities. Conservation of un-built pockets, if any, in such congested areas must be given high priority. In fact open spaces should even be created to impart the breathing lungs which they are in dire need of. The municipal and/or development authorities should have for such areas a systematic policy of gradual decongestion. They should have detailed long term redevelopment schemes ready for such areas and as building plans and applications are received they should be sanctioned only when they conform to the long term redevelopment schemes. In this manner the new developments will fall into the pattern envisaged for the future. In the context of our economic and financial limitations such a gradual but steady improvement programme seems to us the most

economical and practicable way of making a dent on the physical living conditions of the vast majority of residents of urban areas living in over-crowded localities.

18. A majority of the houses in the congested areas are sub-standard because the house properties here have not even been given proper annual repairs. Since most of these properties are rent controlled, the returns by way of rents from them are so low that the owners of such properties have hardly any incentive left for improving these properties or of making additional investments on them. This is one of the important reasons why these areas have undergone so much of physical deterioration. Since rent control retards the construction activity it thereby reduces the return from land and incidentally adversely affects the income of the local bodies also.

19. It, therefore, becomes necessary not to confine the programme of improvement to toning up the environment only. Something has got to be done to improve the individual houses also. In those cases where an improvement depends upon the cooperation of the land owners, for example, in the matter of converting dry latrines into water-borne flush latrines, a combination of incentive, inducement, coercion and financial assistance may be tried. Financial assistance in particular may be necessary to property owners in the very low income brackets. Education of the people by social education, social welfare and urban community development organisations in these matters may also be helpful.

20. The important issue in this context relates to the existing rent control legislation. We have already indicated the manner in which the rent control laws are responsible for hampering urban improvement as well as for preventing optimum utilisation of land in the thickly developed urban areas. We, therefore, feel convinced that there is a strong case for revising and rationalising the system of rent control not only to bring it in tune with the system of economic realities of today but also to ensure that its operation does not impede urban development and improvement.

21. We find that in many cities the land is not properly and fully utilised in as much as dilapidated and single-storeyed buildings exist on the land situated even in very important and good localities. It has also been seen that proper and full use of this land is not possible despite the fact that the land-lords may be willing to put up modern buildings there in accordance with the provisions of the Master Plan as they are not able to do so on account of the Rent Control Laws of some States which do not permit eviction of tenants on the ground of need for development and proper and fuller utilisation of land. Most of the old buildings cannot even be properly repaired and maintained and present a very ugly and dilapidated look because their rents have been frozen and have ceased to be economic and do not provide any incentive to the landlords to invest in these properties. If the rent laws could be suitably amended permitting eviction of the tenants by the landlords in the event of the latter undertaking to redevelop the properties to the optimum capacity in accordance with the Plans and programmes of development, at least in the big cities most of the landlords would be willing to redevelop their lands and construct modern buildings thereon. Fuller and proper utilisation of these sites will also be in the

interest of the community at large because the cost on the provision of civic amenities, like water-supply, drainage etc. which are already available in these areas, would be negligible. Incidentally, the income of the Local Bodies from the property taxes on the newly constructed buildings will also be many times more than what it is now.

22. The eviction of tenants in such cases will, however, cause hardship to a number of old tenants paying nominal rents and, therefore, some reasonable compensation not exceeding five years rental may be paid to these tenants in order to facilitate their rehabilitation at other places. In the alternative the evicted tenants could also be given an option to occupy portions of the newly constructed buildings on controlled rents. The Local Authorities may also, if possible, provide some transit accommodation for such tenants to mitigate their hardship. It is heartening to note that in Bombay the State's Rent Control Act provides for the eviction of tenants of the buildings which are not more than double-storeyed. The conditions subject to which this can be done and the procedure prescribed in the law therefor are, however, so arduous and dilatory that the effectiveness of the provision is considerably reduced. Nevertheless, the relevant provision in the Maharashtra State's Rent Control Act is noteworthy and we commend that suitable provisions for the eviction of tenants from old and dilapidated buildings which at present limit the full use of land on which they stand should be made. In regard to sub-letting of the premises also the Rent Control Legislation should be amended to discourage to the maximum extent possible such a practice.

Non-Conforming Uses

23. Any programme for the improvement of the congested areas cannot afford to ignore the existing non-conforming uses. In so far as the non-conforming uses are obnoxious or hazardous their immediate removal must be undertaken. For the rest of the non-conforming uses there should be a phased programme of removal depending upon the period of grace granted to them to shift to proper locations designated for them in the land use plans or under zoning regulations. To expedite their shifting, *i.e.*, earlier than the full period of grace, the non-conforming uses could be subjected to reasonable administrative and financial measures and facilities for further expansion.

Only negative measures, however, are not enough. Some positive inducement will have to be given to provide strong incentive to shift to properly demarcated new areas. The requirements of the existing non-conforming uses should be given priority in the allotment of new sites on easy terms. They could also be given some tax relief for a few years provided they shift within a specified period. Similarly they could be given a more lenient treatment in the grant of power supply and loan assistance. Such positive measures should facilitate a more willing and smooth shifting of the non-conforming uses to proper places reserved for them even before the period of grace stipulated for them. In cases where non-conforming uses do not shift even after the period of grace, prosecutions should be launched and recurring fines for each day of non-conforming use imposed in addition to any other penalty that may be prescribed by the law.

Vacant Plots

24. Another important measure in this category of land relates to vacant sites within the developed areas. By vacant sites is meant those sites or plots of land which are buildable according to the provisions of the Master Plans but are lying unbuilt. The continued existence of vacant sites within the developed areas may, in a large number of cases, be with a speculative intent. On the other hand, in many cases the vacancy may be due to *bona fide* reasons or circumstances beyond the individual's control. The fact, however, remains that the vacant sites amount to wasteful non-utilisation of land and services when the demand for them is so acute all over. It is recommended that the vacant sites should be subjected to heavy municipal taxation where this is not already done. Another suggestion is that the rate of property tax on vacant sites may be made penal with the passage of time. It has also been suggested that the vacant sites should be compulsorily acquired and utilised for meeting the deficiencies in community facilities which are chronic in the developed and congested urban areas.

25. We unreservedly endorse the idea of subjecting the vacant sites to normal municipal property taxes. There is no reason why vacant sites should not contribute to the municipal exchequer their normal dues. In fact the value of a vacant site gets considerably enhanced because of municipal services and facilities being available in the developed areas. To the extent there are vacant sites within the municipal limits, the municipal services have to be stretched farther and farther and because the services though available are not made use of avoidable loss is caused to the local body and municipal finances suffer.

26. As regards the imposition of a penal tax on vacant sites, we appreciate that our country today is suffering from a shortage of building materials. A large number of the owners of vacant sites, keen on constructing houses, find themselves quite helpless because they do not get the building materials. In quite a few cases the vacancy may be for other *bona fide* reasons like poverty and lack of finance. Under these circumstances we would suggest firstly that there should be a limit to the size of a plot up to which a vacant land may not be subjected to a penal tax. For plots and sites beyond the exempted size a penal tax should be levied after five years from the time all essential services have been made available. We would also recommend that outright public acquisition of vacant sites, where these are absolutely necessary for making good the deficiencies in regard to community facilities like schools, dispensaries, parks and tot-lots, should be undertaken.

27. We may also here refer to the recent decision taken by the Delhi Administration in notifying for compulsory acquisition of about 9,680 vacant residential plots in Delhi. This decision was taken to prevent speculation in vacant plots and to encourage *bona fide* building construction activity. As soon as the notification was issued the prices of land came tumbling down but it simultaneously also led to a rise in the prices of building materials and building labour because of considerable increase in building activity. It is, however, understood that land prices have again shown an increase though they are still much lower than before. This bold and unique step

of Delhi Administration throws good light on the pros and cons of a measure like the one discussed above.

28. The most important of the problems in the developed areas pertain to high land and property values. These high values of land and properties mostly represent the cumulative effect of past unearned increments accrued as a result of the inter-action of social forces and community growth. Since these unearned increments are the result not of any individual's effort but in the nature of 'social surpluses', society has every justification in mopping them up. Through what measures this mopping up should be undertaken has been discussed in detail under a separate heading in a subsequent part of our report.



CHAPTER VII

MEASURES FOR UNDEVELOPED URBAN LAND

Scattered pre-mature Spot Development

1. Within many municipal limits there exists land which is yet to be developed and built upon. There is also a tendency for simultaneous spotty development to take place. This spotty growth is wasteful of land and is often of a sub-standard nature. The scattering of small settlements here and there necessitates the stretching of roads, utility lines and communications etc. Individuals residing there have to commute to the urban core even for trifling purposes. Obviously such a state of affairs is neither in the interest of the public authorities nor in the interest of the individuals. It has, therefore, rightly been suggested that spotty development should be discouraged and compact integrated development encouraged.

2. While this idea in itself is quite good we are at a loss to understand as to how to effectively prevent spotty development within the existing legal and constitutional frame-work. A few suggestions in this regard are, however, worth consideration. In most of the urban areas, particularly the bigger ones, spotty development generally comes about because of the activities of various public authorities themselves. Thus, for example, the Improvement Trust may select some specific area for housing. At another place the Railway authorities may have set up their own colony and at yet another place the municipality might be trying to establish a Harijan Housing Colony. All these activities being conceived and implemented to serve the immediate limited individual ends lead to scattered and unplanned growth. To the extent the scattered spotty development is due to this factor we believe that by better co-ordination of such activities with the help of the State Town Planning Departments the problem could be considerably eased. To the extent the individual developer and builder is responsible for spotty development the only way to improve the situation would be the imposition of stringent conditions subject to which alone development or construction may be permitted outside of the compact area. Needless to say, the Municipalities, Improvement Trusts and other development agencies have to be more conscious and vigilant about the need and desirability of integrated and compact development. Another method may be the acquisition of the area by the Improvement Trust or the Municipal Authority. If this is done, development can be taken up in a planned and integrated manner as and when desired.

Coordination For Compact Development

3. We further believe that better co-ordination between the public authorities responsible for development and those providing the public utilities is also extremely necessary in this matter. Once a particular area has been chosen through common consent for development the provision of the utilities and community facilities must not be allowed to lag behind the construction of houses etc. Alternatively, the programme for extension of public utility services, construction of roads and provision of street lighting and community facilities should be so evolved as to be consistent with

the idea of preventing spotty development and encouraging compact development only. We also hold the view that future development in the presently undeveloped areas should be on the basis of planned neighbourhoods which in their own turn should form an integral part of the Master Plan of the city, if one exists. In the lay-outs of these new neighbourhood there should be adequate reservation of land under open spaces, green belts or farm lands with a view to meeting future contingencies and emergencies. This, in our opinion, deserves special attention of the planners and the public authorities.

Speculative Land Transfers :

4. It has been noticed that speculative transfers take place on a substantial scale in undeveloped land lying within the municipal limits. To discourage this speculation it was suggested that prior permission for each transfer in respect of such lands should be made obligatory and a suitable levy imposed at the time of the transfer. Among these two suggestions we have found the first, namely, prior permission for each transfer impracticable. We have been advised that an obligation to obtain such a prior permission would not be a reasonable restriction on an individual's right to property and such a law would, therefore, be *ultra vires* of the Constitution. We are, therefore, left only with the alternative of imposing a levy on such transfers. Where the land transfer is accompanied or followed by a change from agricultural to non-agricultural use, subject to its being consistent with the master plan and zoning regulations, this levy may take the shape of the conversion tax discussed at a later stage. Where the transfer involves non-agricultural land, the other levy, namely, the development tax, examined later, should come into operation. These measures will in our opinion, enable the public authorities to have adequate control over the use of land and enable them to mop up part of the potential value of developed land. To the extent the public authorities are able to mop up the potential values to that extent rise in prices of such land should be discouraged.

CHAPTER VIII

MEASURES FOR URBANISABLE LIMITS

1. Beyond the city limits there lies urbanisable land, *i.e.*, land which may be rural at present but which is most likely to get urbanised over a period of 15 to 20 years. It has been noticed that in the absence of adequate control measures this land is vulnerable to haphazard growth particularly along the highways which get choked for free flow of traffic and in such situations bypasses become necessary which means incurring avoidable public expenditure. In this land one also finds industrial establishments of various sizes located here and there. Along these industrial units some urban characteristics develop but in a very chaotic and undesirable manner.

Control Measures to Check Haphazard Growth :

2. The measures suggested for dealing with the problems in this category of land are firstly to determine the urbanisable limits and to include the same within the jurisdiction of the urban local body by extending the municipal limits to cover that area so that the local authority is able to control and regulate the growth. It is also suggested that this area should be declared a 'controlled area' as has been done by the Government of Punjab under the Chandigarh Periphery Control Act. It may be useful to mention that under this Act an area within 5 miles on all sides of the Chandigarh boundary has been declared a controlled area. No person can erect or re-erect any building or make any excavation or lay any means of access to a road in the controlled area except in accordance with the plans and restrictions. A periphery land use plan serves as a guide and decides the land use. No change is permitted in the present use of land in an area 300 feet along all roads and railways and in the potential area in which the town is likely to extend. Areas considered suitable for brick kilns or for afforestation etc., are designated as such to enable these uses to settle themselves.

Approach To Extension of Municipal Limits

3. We see no objection in generally agreeing with both these suggestions. We are, however, afraid that in spite of the idea of extending municipal limits being theoretically good, in actual practice this may not always be workable and may even create many administrative and public relation problems arising out of the conflicting claims and interests of the rural and the urban areas. The urban tax payer may feel that he is being made indirectly to subsidize the rural area while the rural citizen may have a grievance of being neglected in the matter of provision of civic amenities. The rural areas may claim their share of municipal services without having the capacity to pay for them. Yet politically they may exercise a pressure which in a democracy has to be reckoned with. We would, therefore, suggest a cautious approach in the matter of extending the municipal limits. Each case should be decided on its merits. In all such cases where extension of the municipal limits does not seem to be feasible or immediately desirable the municipal jurisdiction in

the matter of essential planning controls, like regulation of construction, could easily be extended up to about five miles beyond the municipal limits. In fact a number of Municipal Acts contain such an enabling provision. The other alternative namely, of declaring the area as 'controlled' also appeals to us as workable but we would leave to the State Governments the discretion of either using the municipal act as suggested by us or of having a separate legislation on the lines of U.P. Regulation of Building Operations Act of Chandigarh Periphery Control Act for the purpose.

Public Ownership Of Land

4. The land values within the urbanisable limits are generally very much less than those prevailing nearer to the urban cores. In the long run, as urban population increases and urban areas grow, these values go up. Speculators and profiteers enter the field as soon as they feel that land values are showing a tendency to rise and purchase large areas from the cultivators and then sell it at their own terms sometimes after some sort of development and sometimes even without it. The prices are generally artificially pushed up to make high profits. In order to keep down land values and other reasons of development it is suggested that public authorities should gain ownership of land in the urbanisable limits through mutual negotiations or through compulsory acquisition.

5. Of these two alternatives, we would have greatly preferred the idea of public authorities' purchasing these lands in the open market like any private individual through mutual negotiations. It would have been an approach to the problem which is perhaps the least troublesome and one which should have steered clear of all the formalities and dilatory processes usually associated with compulsory acquisition of land. But we cannot escape noting that a number of difficulties attend even this 'innocuous' measure. If the land business is transacted departmentally by an officer, as is most likely to happen, an officer with requisite tact and knack may be difficult to find. If one is found, there are strong probabilities of his being maligned with charges of nepotism, indiscretion or illegal gratification even though he might have acted with complete honesty. If, on the contrary, he does act in a dishonest manner, the land transactions may lend the public authorities into substantial losses. Purchase of land through mutual negotiations creates also the difficulties arising out of different divergent claims to a piece of property and a satisfactory settlement of these numerous competing claims of rights. As against this, when a property is acquired compulsorily it becomes available to the public authorities without encumbrances. At the same time the tenants, if any, also get evicted in the process. Weighing the pros and cons we are of the view that the purchase of land through negotiation may bristle with too many formidable difficulties which cannot be under-rated.

6. A way out of the type of difficulties stated above may be entrust this work to some high-powered statutory autonomous Urban Development Board or Authority established at the State level and provide for its purpose compulsory public acquisition of land. Being an autonomous statutory organisation it would be free from day-to-day administrative procedural delays. Our recommendations on the composition powers and functions of such a Board or Authority are given in the last section of our Report.

CHAPTER IX

MEASURES FOR LAND BEYOND URBANISABLE LIMITS

Regional Land Use Planning

1. Coming to the land beyond the urbanisable limits, its use should be governed by regional land-use plan, if one exists. Even where a regional plan does not exist some special interim measures for this type of land are necessary. The measures envisaged here need not be complex ones but just those which make it possible to maintain, as far as possible, the basic rural character of the land in question and to exercise control over major developments there. This is necessary to prevent the growth of conurbations, spread of urban sprawl and emergence of pre-mature spot development of sub-standard character. Maintaining the basic rural character of this land should not be construed to mean that this area will be totally debarred from getting the benefits of industrialisation. Even when no regional land use plan exists, small agro-industrial units could be set up in the villages. The location of large industrial units which are likely to change the character of the area into urban should not, however, be allowed to come up in a haphazard manner but strictly in accordance with the regional land use plan which underlies our entire approach to the urban land problem and whose preparation at the earliest should be undertaken. We also wish to add that in the matter of establishing industrial units, other than the small agro-industrial ones, there is certainly a great need for co-ordination between the concerned rural local body, the urban local body, the Director of Industries and the Town Planner of the State Government. Wherever, industrial units are allowed to be located in the rural areas after joint consultations among the concerned parties and subject to the location being consistent with the regional land use plan (if one exists) and proper safeguards we see no reason why the rural local body within whose jurisdiction the industrial units are located should not subject them to adequate taxation, licensing and other control measures akin to those to which such units would have been liable had they been located within the municipal limits.

2. It is also often seen that some regions show signs of extraordinarily rapid development. It may be due to location of one or more big industries or other factors like availability of power, transport etc. In such cases it is desirable that early steps are taken to regulate growth of buildings etc. This can be done by creating an over-all authority responsible for watching and regulating development activity. In U.P. it is done by declaring such areas as regulated areas under the Regulation of Building Operations Act and setting up an authority under the Divisional Commissioner to regulate growth in the defined area.

Prevention of Ribbon Development

3. One of the very important measures for this category of land also relates to the safeguarding of the highways from ribbon development and frequent intersections and crossings. We note that the power to control ribbon development by prescribing a certain right of way and disallowing developments within a prescribed

distance therefrom is available to the Central Government in so far as the national highways are concerned under the National Highways Act but the implementation of the measure appears to be poor. We are not, however, aware if any State Government other than those of Uttar Pradesh and the Punjab has a similar legislation to control developments along the State and district highways. The Government of Mysore have recently passed such a Bill and the same is awaiting President's assent. We need hardly emphasize that such legislation should be passed by all State Governments as soon as possible and more important than that, enforced effectively. The Executive Engineer of the appropriate authority should be made responsible for watching development along the highways and enforcing the suggested legislation. He should be given summary powers of demolition on the same lines as the Municipal Commissioner of Greater Bombay has recently been given in respect of the demolition of unauthorised structures.



CHAPTER X

MEASURES FOR MOPPING UP UNEARNED INCREASES

1. While discussing the various measures for tackling the problems in the developed and undeveloped urban land we had stated that unearned increases in urban land and property values being in the nature of 'social surpluses' must be mopped up for the benefit of the society as a whole. After all development in and around a town takes place as a result of Government and municipal development activities and there is no reason why the huge profits should be allowed to be digested by speculators and profiteers. An overwhelming majority of the views and opinions conveyed to us subscribes to this idea. The Third Five Year Plan also recommends the mopping up of unearned increases in urban land and property values as a measure to combat speculation and also as a measure to achieve social and economic equity. We also unreservedly endorse this idea.

2. While there is every justification for siphoning off unearned increases the real difficulty comes up when the decision about a suitable measure or measures to achieve this objective is considered. At this point the question assumes a very large dimension in which the social, economic, legal and administrative factors seem to pull in different directions. We would, however, like to recall in this context that the Note and Questionnaire had sought opinion on five measures for mopping up unearned increases in land and property values. These were : (a) enhanced stamp duty on transfer of property; (b) development charge; (c) betterment levy; (d) conversion fee, *i.e.*, fee charged when conversion of land from agricultural to non-agricultural use takes place; and (e) an annual tax on unearned increments.

3. Along with these we have considered two more alternatives namely, (1) of converting the basis of municipal taxation from annual value to capital value; and (2) separate rating of land/site and building/development. After splitting up the assessments for site and development a lower rate of property tax on development and a higher and steeply graduated tax on the site/land may be applied. We discuss below the relative merits and demerits of each of these measures.

Stamp Duty on Property Transfers

4. Stamp Duty on transfers of properties is already being levied everywhere in India. Enhancement of the stamp duty or the levy of an additional surcharge should be helpful at least theoretically. In fact such a surcharge already exists in a number of places but nowhere is the revenue raised from it of any significance. This is because the surcharge is calculated on the stamp duty payable and the rate of the surcharge is a small percentage. The more important reason for it, however, is the very widespread tendency to understate the consideration values than what they actually are. This is no doubt gross evasion of legitimate dues payable to the State not only in stamp duty but indirectly in income, and wealth taxes and Estates Duty. We deplore this anti-social tendency but there does not, unfortunately, seem to us any effective check against this evil practice.

5. At this point we should like to mention that the Stamp Act already provides that the Registrar may, where he has reason to believe that gross under-statement of the value of the transaction is being made to avoid the liability of the Stamp Duty, have an enquiry conducted and charge the Stamp Duty on the basis of the value assessed by him. In actual practice, however, the Registrar has hardly any means to have such enquiries conducted. The only and really effective remedy against the widespread tendency of under-quoting the consideration values would have been the right of pre-emption exercisable by the Government or any other public authority pre-empting the transfer at the value declared by him. We discussed this suggestion at considerable length but we are greatly disappointed to find that our Constitution, particularly its Article 19, does not permit the Government or the Public authorities to assume the legal right to pre-empt transfer by the individuals. In these circumstances enhanced Stamp Duty or a rate of surcharge high enough to be effective may, we are afraid, accentuate the tendency to under-quote the valuations in registration. Assessing this measure on the whole we come to the conclusion that the surcharge on Stamp Duty may not be a very effective instrument for mopping up unearned increases.

Development Charge

6. The Development Charge is a relatively new concept for India. The Model Town and Country Planning Act prepared by the Town and Country Planning Organisation has, for the first time, mooted this idea in our country. This charge is payable when a land use is instituted, or changed or when any 'development' is carried out. By development the Model Act means the carrying out of building, engineering, mining or other operations, in, on, over or under land or the making of any material change in any building or land. The definition of "development" includes the change in the use of any land or building or any portion of it. Thus the change of use of a land or building from residential to commercial or from agricultural to residential or commercial or industrial will attract the "development charge". In fact this concept has been borrowed from the U.K. where the State had nationalised the development rights of all lands and thereafter grant of planning permission under the Town and Country Planning Act, 1947 was subject to the payment of the development charge. In the event of permission being refused, the State had the liability of compensating the owner therefor.

7. The West Bengal Government and their Commission for Legislation on Town and Country Planning have doubted the legality of the development charge. Their argument is that the development charge cannot be treated as a fee as it is not based on *quid pro quo* because in granting permission for a conforming use the State is not conferring any special benefit or privilege in lieu of which the charge may be justified. There is considerable force in this contention and development charge has to be levied as a tax on lands and buildings. Even by making it a tax the problem is not solved and a number of difficulties will still remain to be resolved. This particular tax would have to be in addition to the existing municipal property taxes and the building application fee or building application taxes. This over-lapping of tax jurisdiction would naturally create many difficulties. If it is levied at a fairly high

rate to be an effective enough instrument for mopping up unearned increases, it may discourage development itself. This again would not be socially desirable. Other weaknesses in the development tax are that this concept is not properly understood by the public authorities and it is generally confused with development cost. Furthermore, this levy would operate only when a development is applied for. So long as an owner does not undertake actual development or change of use of his land or property he does not attract the levy. Looked at from this angle the development charge would appear like a discount on development and a premium on inertia. In any case this tax will not help situations where old properties continue to exist without any change yet go on increasing in value solely because of unearned increments. This is more likely to happen in the congested areas where development should rather be induced than discouraged in the interests of the community. If one were to ignore the handicap of this tax even as a measure of mopping up unearned increases it seems to have only limited scope. We, therefore, feel that while a modest development charge may attend the grant of a planning permission, subject to its proper co-ordination with other local and State taxes on property particularly the tax on building applications, much reliance on it, under the circumstances, cannot be placed in so far as the larger question of mopping up unearned increases is concerned.

Betterment Levy

8. Betterment levy is already being collected in a number of cities and towns of India particularly in Madras, Andhra Pradesh, Maharashtra and Gujarat under the respective town planning acts. The general experience about the betterment charge is reported to have been not very happy. Betterment is difficult to determine and the levy is generally disputed because it has to be related to the extent of betterment consequent upon the implementation of some scheme of improvement in the affected areas. Operationally this charge is also limited to those areas where some improvement has been brought about through a development scheme by a public authority. In areas not so improved, betterment levy does not and cannot operate. As a general measure for mopping up unearned increases even the betterment levy does not appear to be free from difficulties.

Conversion Tax

9. The same handicap is discerned in the case of conversion fees, leviable as these are only when the use of land is converted from agricultural to non-agricultural. The legal opinion on such a levy is that it would be permissible only as a tax. For capturing part of potential land values when agricultural lands get transferred, a conversion tax has something to command itself. It is likely to affect the speculators. We, therefore, feel that a tax on conversion of land from agricultural to non-agricultural use could be a useful device in so far as the lands around urban areas are concerned, where in fact the extent of speculation is more than anywhere else. We recommend the adoption of this tax and further suggest that the rate structure of this tax should be differential for conversions to residential, commercial and industrial uses. We have recommended the conversion tax knowing well that this measure also is of limited application. We would, therefore, like this measure to be accompanied by some other broad-based measure which is more universal in application.

Annual Tax on Unearned Increments

10. An annual tax on unearned increments has been suggested in the Note On Urban Land Policy. Quinquennial assessments of land and property values is envisaged and the levy of an annual tax on the amount of unearned increase in land and property values accrued during the last and the latest assessment is proposed. It was suggested that there should be an exemption limit to protect the interests of the economically weaker individuals—like widows, orphans, disabled and old persons—among the class of property owners. The most controversial aspect of the suggestion is; whether it is justified to tax unearned increments without their having been actually 'realised' by the owner as happens, for example, when he sells or transfers his property. How can any individual be taxed unless he has actually benefited from his property through sale or transfer? As against this argument the Note on Urban Land Policy contends that even if an unearned increment has not been 'realised', the value of an individual's real estate or asset improves because of unearned increments. On the strength of his assets represented by his real estate, the owner enjoys a high economic and social status and benefits therefrom in a number of ways. For example, his credit-worthiness goes up and he can cash on his assets at any time. A tax on the lines proposed by TCPO has, no doubt, many more merits than in the other measures discussed above. Such a tax would be quite broad-based and effective and we would have been inclined to recommend it. We, however, are afraid a tax of this nature may need a complex valuation machinery and meet with stiff resistance from those affected by it. The practical difficulties attending such a levy are bound to be quite serious.

10-A. The practical difficulties notwithstanding, it has to be remembered that a tax of this nature falls in the Union field under "Entry 86 of List I of the Seventh Schedule" to the Constitution. Under that Entry parliamentary legislation like the Wealth Tax, and Capital Gains Tax is already in force. It will not be possible to levy any tax of this nature by States or municipal bodies. The question of levy of such a tax may nevertheless be examined by the Central Government. We are of the view that rather than having a new tax, the existing taxes in the Centre, States and local authorities should be so framed as to mop up unearned increases to the maximum extent possible.

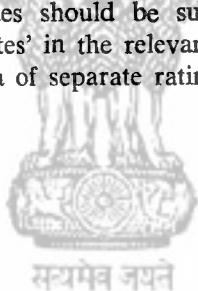
Basis of Municipal Property Taxation

11. Quite related is the question whether the basis of Municipal Property Taxation itself should be changed from reasonable annual value to capital value. The Local Finance Enquiry Committee and the Taxation Enquiry Commission had examined this question. It is a subject on which it is difficult for us to hazard any definite views especially it is not clear whether the municipal bodies can at all levy the tax on the basis of capital value. All that we may observe is that there is definitely an urgent need to rationalise the existing system of municipal property taxation. As property taxes form the largest source of municipal tax revenue in India, the rationalisation of municipal property taxation must aim at improving both the yield from these taxes and efficiency in their administration. It was also suggested to us that the capital value

of plants and machinery fixed in buildings could also be added to the capital value of buildings for purposes of municipal taxation. This is a question which requires detailed examination.

Separate Rating of Site Values and Developments

12. We had mentioned earlier another related measure, namely, separate rating of site and development and the application of lower rates on development and graduated higher rates on site value. It is argued that separate rating of site value would discourage the tendency to own and wastefully occupy big plots of land within the urban areas and also of preventing urban sprawl. Another merit claimed for this proposal is that it will, by subjecting development to relatively lower tax rate, encourage intensive use of land and encourage rather than penalise development. We have considered this suggestion. Its implementation will introduce drastic changes in the system of municipal property taxation, call for complex valuation machinery and give rise to many administrative difficulties. It will at the same time tend to get built up welcome open spaces here and there. We are not, therefore, inclined to endorse this suggestion. We, however, think that the problem of wasteful use of land should be considered as a part of the question of dealing with vacant sites. We have recommended elsewhere that vacant sites should be suitably taxed. We think that an appropriate definition of 'vacant sites' in the relevant tax-legislation could take care of the type of problem which the idea of separate rating aims to tackle.



CHAPTER XI

OTHER ANTI-SPECULATION MEASURES

1. One of the major issues in urban land policy concerns land speculation in and around the urban areas. The extent of speculative activity in the major urban areas and growing towns is reported to be very high. It has also been noticed that in those places for which master plans begin to be prepared speculative activity shows a marked increase. It is quite well-known that speculation is largely responsible for the very high urban land values and even by conservative standards speculation is an anti-social activity. We fully share the view that no proper solution of the urban land problem would be possible so long as widespread speculation continues.

2. As regards the measures which will help curb speculation in land, we have already suggested large scale advance public acquisition of land and also the need to impose a tax on conversions and a tax on Development. The Note On Urban Land Policy and the questionnaire had mooted a rather new idea mentioned earlier that public authorities assume the right of pre-emption at the price indicated by the owner. We have already stated that even though we appreciate that it would have been a very effective anti-speculation measure we find ourselves helpless in recommending it as it is considered by legal experts to be too serious an infringement of Article 19 of the Constitution.

Ceiling on Urban Land Holdings

3. Three other anti-speculation measures may also be examined. The first is that no individual should be allowed to acquire within any urban area land beyond a prescribed ceiling. Replies to the questionnaire have supported this idea and have expressed the opinion that a ceiling on urban land holdings would help check speculation. If a ceiling on urban land holding is to be fixed how the ceiling should be determined? Should it be in relation to the value of land or in regard to the size of holdings? A plot of land of the same size may be worth lakhs of rupees in central parts of the city or town while in the less prominent areas the same amount of money could give possession over an enormous amount of land. If a ceiling is enforced should it govern industrial and commercial uses also? Different industrial and commercial units have varying land requirements. In such cases how will the upper limits of the plot-sizes be determined? Such complications make the idea quite impracticable as a general proposition.

4. Though the enforcement of a ceiling on urban land holdings bristles with numerous complications, yet we feel very strongly that the idea should in principle be accepted and implemented in all new allotments of land made by the public authorities hereafter for residential purposes. The public authorities must make it a policy of not allotting a plot of residential land to one who already owns a residential plot in the urban area. Secondly, the public authorities must not allot such land beyond a reasonable maximum size to any one individual. In fact this policy is

already being followed by the Delhi Administration in its land disposal programme. Exemptions from this rule may, however, be given to registered co-operative societies or other registered public or private limited concerns which are engaged in the business of developing and disposing of residential land. These being registered organisations it should not be difficult for the public authorities to keep a watch on their operations. Exemption may also be given to persons who undertake to construct dwellings for rental purposes or construct group-houses or flats. We consider this exception necessary to encourage housing activity for mass rental purposes. It may be also desirable to make exceptions in the case of people living in congested localities or houses built on very small plots or in favour of those owning only a small share in joint family houses.

Time Limit for Constructions

5. Another suggestion is whether a time limit should be prescribed within which vacant plots should be built upon and whether a penal tax should be levied for keeping land idle beyond a prescribed time limit. While theoretically there is nothing wrong in these suggestions we find that under the prevailing circumstances when building materials are in acute short supply and a large majority consists of persons of modest financial means, imposition of such strict conditions would create a good deal of hardship. In view of the prevailing difficulties about the availability of building materials we feel that the time limit for completing construction on vacant plots should not exceed five years after the services have been provided. Only after five years should a heavy tax, increasing with the passage of time, be made applicable.



CHAPTER XII

LAND ACQUISITION—PROCEDURE AND COMPENSATION POLICY

1. We now propose to touch upon the most complex but crucial of the problems of urban land policy. This relates to compulsory public acquisition of land. It has been suggested that large scale public acquisition of land should be undertaken in the undeveloped areas and in areas within the urbanisable limits. In answer to our questionnaire a large number of public authorities have also expressed opinions in favour of large scale, compulsory public acquisition of land as it is considered economical and also desirable in the interest of proper urban development. We too are of the view that there is no escape from large scale public acquisition if the question of guiding urban development or the provision of adequate housing and other facilities is to be tackled effectively. We would even go to the extent of observing that large scale advance acquisition of land would really be in the best interests of the society as a whole. It is by far the best and perhaps the only way to put an end to speculation in land and to capture subsequent increases in land values. These surpluses, when realised by the public authorities should benefit the community in ways more than one. Above all, this measure enables proper planned development and use of land, besides enabling the public sector to extend its control over vital land resources.

Advance Acquisition of Land

2. Advance acquisition of land in anticipation of future needs could be possible by the Government notifying under Section 4 of the Land Acquisition Act of 1894 the entire area of land it wishes ultimately to acquire. A question was raised whether it would be lawful on the part of the Government to notify large areas for acquisition when the same were not going to be actually taken possession of or utilised for a number of years to come. Expert legal advice on this point is in the affirmative. While there is no legal impediment to freezing, so to say, large areas, we do not feel quite happy that large areas should be notified for acquisition, as was done by a number of local bodies and development agencies, and the actual possession of the same should be taken after the lapse of a number of years during which many a change, like the rise in the general price level etc., may have taken place. At the same time we cannot resile from the stand taken by us that large scale advance acquisition is necessary and desirable on various counts particularly as a solution to the baffling problem of rising urban land values. We have, therefore, to strike a proper balance in reconciling this conflict between the social and the private interest.

3. Our suggestion is that Government may notify in advance large areas for acquisition. This will amount to paying compensation based on the market value as on the date of preliminary notification. Evidently this should considerably relieve the public authorities of their anxiety about finances for land acquisition and enable them to plan their programmes with certainty and confidence. But in all cases where the Government fails to take possession of any particular piece of land within a period of five years we would recommend that the Government should assume the

liability of paying, in addition to the compensation, interest on the amount of compensation at the bank rate for the period in excess of the first five years from the date of notification. This is not permissible under the present Land Acquisition Act of 1894. The necessary amendment to the Land Acquisition Act of 1894 may become necessary and should be made. Doing so would considerably mitigate the hardship caused to the individual land owner whose land, being in a state of suspense, cannot be developed and improved so as to give him the maximum possible economic return therefrom. Considering the fact that the land after notification continues to be in the possession of the owner (till Government takes its possession) and that the owner can continue using it, payment of interest should be a more than adequate recompense for losses, if any, sustained by the owner due to uncertainty. On the other hand, the liability to pay interest would deter the Government from erring on the side of excess in notifying land for acquisition. It would also reduce considerably people's resistance to public acquisition of land which often causes delays and difficulties.

4. Even though large scale advance acquisition of land is within the realm of feasibility, we would like the public authorities to go about the business of land acquisition and development not recklessly but in a systematic manner. They should really undertake this work on a continuing basis and from year to year. It may be a good idea for them to assess the land requirements of the respective city or town for the next few years and it should be easier to do so if a master plan exists. In the context of the medium and long term targets of the Master Plan a phased annual programme for acquiring, developing and disposing of land could be drawn up and executed.

5. At this point we should recall our suggestion about the setting up of statutory autonomous State Urban Development Board/Authority. We consider it desirable that instead of different local bodies and development agencies handling the work of land acquisition, development and disposal, each in a limited isolated way, these functions could be better performed by a High Powered Board or Authority. The problem of finances may also be easier in so far as the Board Authority may raise funds through loans from the State Governments, Commercial Banks and the Life Insurance Corporation of India. It may also borrow funds from the local bodies. The Board/Authority can have a Revolving Fund and in course of time it may be possible for it to undertake work many times more than the finances available with it.

Acquisition Procedure

6. By and large, compulsory public acquisition of land in India is governed by the Land Acquisition Act of 1894. There, no doubt, are a few special acts also under which land can be acquired. It is, however, found that except in the case of Improvement Trusts and the newly constituted Housing Boards, which are governed by their respective acts, the acquisition provisions of the special Acts have not been largely utilised. The Slum Clearance Acts are the illustrations in point. Another good illustration is the Delhi Development Act, 1957. Under section 16 of this Act land could have been acquired by paying market value of land as on October 1, 1955

on the basis of the use of land on that date plus 25 per cent of the increase if any, in the market value of the land during the period between October 1, 1955 and the date of notice. This section has now been repealed through the Delhi Development (Amendment) Act, 1963 and the relevant provision enjoins land to be acquired under the provisions of the Land Acquisition Act, 1894.

7. The non-utilisation of the special provisions governing acquisition indicates the inherent practical difficulties in making any departures from the general practice of paying normal compensation as provided in the Land Acquisition Act. When compensation is determined on any basis other than the market value, considerable legal difficulties arise. The basis itself is sometimes questioned on grounds of undue discrimination. We may at this point mention that we gave a good deal of consideration to the question whether there should be special acts governing acquisition of different types of land or for different public purposes. We are convinced that there should not be separate enactments governing the acquisition of land as the use of separate enactments embodying different compensation formulae may be accused of being highly discriminatory, legally untenable and socially undesirable. The only exception to this should be the the Acts governing Slum Clearance.

8. The general practice all over India is to utilise the Land Acquisition Act of 1894. We would, therefore, concentrate attention on the major problems faced in working with this particular Act. These major problems relate firstly, to the procedure prescribed for the acquisition of land and secondly, to the amount of compensation payable in public acquisition.

9. The Act of 1894 provides the following 5 steps for acquisition of land :

- (a) Publication in the official Gazette under Section 4 of a preliminary notification regarding likelihood or need to acquire land for a public purpose.
- (b) Filing in of objections by the Public within 30 days of the issue of the preliminary notification under Section 4.
- (c) Publication in the official Gazette under Section 6 of the declaration, after hearing of objections and the disposal thereof by the Government of its intention to acquire land.
- (d) Inviting claims for compensation from the affected parties and the determination of compensation.
- (e) Taking actual possession of land by the Government when the compensation award has been accepted by the person or party concerned.

Experience all over the country shows that the entire procedure of acquiring land is highly dilatory with the result that work on projects of public interest suffers. The Law Commission have in their Tenth Report, which deals with the law relating to acquisition and requisitioning of land made a pointed reference to these procedural delays in the following terms :

“.....Experience has shown that inordinate delay occurs in acquisition proceedings. The main complaint of the Governments is that they are greatly

handicapped in carrying out large projects in and outside the Development Plans as well as other works of public utility, as the machinery provided and the procedure laid down in the Act lead to great delays in obtaining possession of the land sought to be acquired. For the smooth and speedy attainment of the ideal of a Welfare State, it is imperative that the Government should be able to obtain possession of the lands needed for their projects with the least possible delay. On the other hand, the complaint from the public is that there are unconscionable delays in the determination of compensation and its payment to the owners of properties. The Finance Ministry has given four instances in which the carrying out of projects has been delayed because they could not obtain possession of the land in time and it has been stated that acquisition proceedings commenced as early as 1948 are still pending."

10. The Law Commission have suggested a few amendments to the existing land acquisition Act to make the acquisition proceedings more expeditious. The Commission have, in fact tried to stipulate a definite time limit for each step in the acquisition proceedings and an overall time limit for the completion of the proceedings by the Land Acquisition Officer. The proposed procedure recommended by the Law Commission is, in their own words as follows :—

".....After the notification under Section 4(1), the investigation under Section 4(2) should be completed and there should be a report by the Officer to the Collector. Simultaneously with the investigation by the officer, the Collector should hear objections to the acquisition and also prepare his report in that behalf. These two reports should reach the Government to enable the Government to take a decision on the question of acquisition. If the Government decide to acquire the land, the demarcation and other procedures, under section 8, should be completed. After these are completed there should be a notification by the Government declaring that the land is needed for a public purpose, authorising the Collector to take order for acquisition (as under section 7) and empowering him to take possession of the land within a specified period. The notification should also include a detailed description of the land by its survey number and area and should also state where the plan could be inspected. It should be possible to complete these proceedings, beginning with the notification under section 4 and ending with the declaration within a maximum period of six months; and if the Government speed up the matter by suitable rules, the proceedings may even be finished sooner and the Government could obtain early possession of the land. We have made a separate provision for emergent cases widening scope of the provisions of Section 17 of the Act."

(ii) Under the existing law, after the declaration for acquisition, the Collector has to issue a public notice as well as individual notices to the persons interested, inviting claims. The Collector then proceeds to make an inquiry and make an award determining the compensation. If there is any dispute, an application has to be made under Section 8 for a reference to the Court. We

feel that an inquiry by the Collector and an award by him are an unnecessary duplication of procedure. The inquiry by the Collector is administrative and not judicial. The so-called award is only an offer made by him on behalf of the Government. It binds the Government but not the other party. It is said that the Collector, in determining compensation often acts on the information furnished by his subordinate revenue officers and does not independently weigh the evidence. The offer which he makes as a result of his inquiry can as well as made by him on the basis of the information which he has about the value of the land. He may get information, if he so desires, from his subordinates or by local enquiry and there are provisions in the Act enabling him to gather such information. He may consult the Government regarding the value of the land, or, if the acquisition is made on behalf of other persons he may consult them as well. On the basis of such material as is available to him he can make an offer to the persons interested and, if possible, may by negotiation fix the amount of compensation. If there is an agreement it may be recorded and an order passed on that basis. Parties may agree as regards compensation payable, the area of land and, if there are more persons than one interested in the same land, the apportionment of the compensation amount proposed to be given to the parties *inter se*. In fact, this procedure of setting the compensation by agreement has been adopted by some of the Requisitioning Acts as well as other Acts, such as the Coal Bearing Areas (Acquisition and Development) Act, 1947, (Act XXVIII of 1957), and we think this is a better method than an inquiry by the Collector, which causes considerable delay in the matter of fixing the compensation. If no agreement is reached, the Collector can straightway refer the matter to the Court. Again, where there is a dispute regarding appointment, it would not be necessary, as at present for the parties to make applications under sections 18 and 30, instead the matters in dispute could at once be taken to the Court. It may be said that where the acquisition is in respect of large areas of land and the claims are numerous, there may be delays in determining the compensation even by the Court. The solution for this lies in the hands of the Government; and if it needs expedition, it can appoint as many special courts as are necessary to deal with the volume of work and speed up the proceedings for determining compensation."

11. These are, no doubt, good suggestions but even after incorporating these suggested amendments the delays in acquisition proceedings are likely to be considerable particularly in cases of large scale acquisition. The Commission have themselves suggested the appointment of special courts where public authorities undertake large scale acquisition of land. We, therefore, feel that in addition to special courts for disposing of references arising out of cases of land acquisition, special land acquisition officers dealing exclusively with this job should be appointed. The replies to the questionnaire also endorse the suggestion to appoint special courts as well as special land acquisition officers. We hope that with all these measures undertaken simultaneously acquisition proceedings would become much more expeditious than what they are today.

12. As regards references against the compensation awarded, a point for our consideration was whether reference should be the ordinary law courts or to Tribunals presided over by a person of the rank of not less than a District Judge, appointed on an exclusive whole-time basis, and consisting of an assessor, estimator and other experts like engineers etc. It was pointed out to us that such Tribunals were already successfully functioning under the U.P. and Bihar Improvement Trust Acts and also under the Nagpur Improvement Trust Act. We are greatly impressed with the idea of such Tribunals as these are so constituted as to have special expertise on valuation problems which is so greatly required in a matter like determining the amount of compensation. Another advantage of such tribunals would be to reduce delays in deciding references against compensation offers by simplifying the procedures of hearings, evidence etc. It has been the experience of a large number of public authorities that the law courts have at a distant later date, *i.e.*, even after the acquired land has been disposed of by the development authorities, revised upward the amount of compensation initially paid. The obvious consequences of such delayed adverse decisions of the law courts have been to upset the finances of the development agencies and/or their schedule of work. The setting up of the Tribunals could help obviate this difficulty. Some members of our Committee do not, however, approve of the idea of setting up Tribunals and desire the ordinary law courts to continue deciding such cases. Those members suggest that wherever large scale acquisition of land is involved special judges courts in requisite number should be appointed to deal exclusively with land acquisition references so that delays are curtailed.

Compensation Formula

13. In the matter of compensation in public acquisition of land the Land Acquisition Act of 1894 enjoins that compensation should be based on 'market value' of land as on the date of preliminary notification under Section 4. In addition, section 23(2) of the Act requires a solatium of 15 per cent to be given. The Law Commission have recommended the continuance of market value as on the date of publication of the notification under section 4 and also that of the solatium.

14. As against the Law Commission's recommendations, the Note on Urban Land Policy contends that the prevailing market prices of land are too high because market prices reflect unearned increments in the values of land accumulated over the past several years as well as a considerable element of potential development value which is essentially of a speculative nature. By paying compensation based on market value, the Note argues, the public exchequer makes payment not only for the actual worth of land but also for unearned increases and speculative values. Payment of compensation to individuals on the basis of market value was, therefore, considered unfair to the public authorities and indirectly to the entire community which has to bear the financial burden of heavy compensation costs through taxes and other levies. The Note maintained that the only way in which accumulated unearned increments and potential development values could be removed from the compensation-calculus was to peg land values to some 'earlier date'. Thereafter necessary modifications should be made in the formula to accommodate other factors like the cost

of development incurred by the owner between the earlier date and the date of notification and change in price level etc. Provisions for pegging land values do exist in a number of special acts, *e.g.*, the Maharashtra and Mysore Town Planning Acts.

15. We would not deny that the above arguments against market value are quite well founded. In fact the fears of heavy compensation liability at present prevent the public authorities from undertaking even the most desirable projects and programmes. Heavy compensation costs quite often render many projects too costly to be within the means of the public authorities. The only possibility of such a situation changing for the better lies in bringing the compensation question to a satisfactory solution. There is no doubt that one of the ways to rid the compensation liability of the illegitimate speculative elements in land values is to ante-date compensation. We began our deliberations on this crucial issue with an element of scepticism that ante-dating may not be held constitutional and legal. The matter has been considered by the Attorney General in relation to article 31(2) of the Constitution after the fourth Amendment. It has also been pronounced upon recently by the Supreme Court. The position would appear to be that if ante-dating is such as to render the compensation illusory or to be no principle of compensation at all, it would be unconstitutional but if it is rational and bears some proximate relationship with and relevance to the date of preliminary notification under section 4, it would not be bad. For instance, an amount representing the average of prices over a previous period of 5 years could be fixed as compensation. Also according to the recent decision of the Supreme Court it will appear doubtful if the compensation payable could be based on any back date with an addition of only half the increase from that date to the date of acquisition as was suggested in the Draft Land Acquisition Act prepared by the Town & Country Planning Organisation. According to the Supreme Court this is not a question of adequacy of compensation which is not justiciable but it is a question relating to the principles for determination of compensation which is justiciable.

16. Even though some kind of ante-dating of compensation may be legally feasible we envisage that in actual practice it will be extremely difficult to fix any particular date or dates to which compensation should be pegged down. As a matter of fact in each case of compulsory acquisition the earlier date, if it is rational, may have to be different. This, incidentally, is a serious enough handicap. This practical difficulty apart, the need for ante-dating does not arise once large scale advance acquisition of land as suggested by us earlier is resorted to. The effect of notifying in advance large areas of land is practically that same as that of ante-dating the compensation. Of the two alternatives we prefer advance acquisition to ante-dating. At the same time we cannot be oblivious that there may be instances where subsequent to the publication by the Government its intention to undertake a scheme at any place or to prepare a master plan for any area speculative activity may precede Government's notification for acquisition of land. In such cases there is considerable justification in relating compensation to the date when the Government first published the intention to undertake the scheme or to prepare the master plan. In such cases which, in our opinion, should be an exception rather than the rule, the compensation may well be ante-dated to rid the compensation liability of speculative increases in land values.

17. Another related issue is the question of compensation for areas presently under private ownership but which have been shown as open spaces, parks and garden and reserved for similar community uses in the Master Plans. A fact which has to be noted here is that once a piece of land is earmarked as a park open space or reserved for a community use the owner cannot thereafter develop his land and put it to any profitable use other than the one already existing on his land. In other words the owner is deprived of his right to develop the property. It is a point for consideration where under such circumstances any compensation should be paid to the owner for his having lost his development rights. Under the existing law no compensation for the deprivation of development right in such cases seems to be payable and the provisions are that such lands should be acquired by the public authorities. Where public authorities are under a legal obligation to acquire such plots of land a time limit within which they should do so must, however, be stipulated. A time limit of 10 years is considered reasonable by us.

Question of Solatium

18. The next issue to be considered is whether payment of solatium is justified. It is significant to note that the provision of solatium does not exist in the special acts and a majority of the public authorities who have sent replies to the questionnaire do not consider it necessary to give any solatium. The Law Commission have, on the other hand, recommended the payment of solatium. The Commission observe :

“It is not enough for a person to get the market value of the land as compensation in order to place himself in a position similar to that which he would have occupied had there been no acquisition; he may have to spend a considerable further amount for putting himself in the same position as before. If, for example, the only property a person possessed was three acres of arable land and he was deprived of this under the compulsory power of acquisition, he would no doubt get the market value of his property; but he would not be in a position to provide himself with a vocation to which he had been all along accustomed. He must find suitable land in or about the locality where he resides, which may not be easily available and he may have to wait and spend more than the amount of compensation he has obtained.”

19. We are of the view that the payment of solatium should not be necessary or justified in each and every case of public acquisition. It is only in cases where very poor individuals are affected and the amount of compensation available to them is very meagre that the payment of solatium may have adequate justification. In fact we are more inclined to treat this issue as a part of the larger problem of rehabilitation of the dispossessed persons. In any acquisition proceedings each and every individual will not need public assistance in getting rehabilitated. Those individuals who really need public assistance in getting properly rehabilitated should be given special consideration by the concerned public authorities. It is, therefore, desirable that simultaneously with the launching of acquisition proceedings a proper survey is made to identify and classify people who would need to be rehabilitated. Suitable measures for their rehabilitation should be undertaken. Some of the measures which we specifically recommend are : the dispossessed persons should be provided with

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CHAPTER XIII

LAND DEVELOPMENT & DISPOSAL POLICY

1. Public acquisition of land is for a public purpose and whenever public authorities go in for large scale acquisition of land in the urban areas it is with the definite objective of making land available for dwellings, schools or other, specific uses. Public acquisition of land is, therefore, only a preliminary though a very essential one, to other processes that should follow. This makes it imperative that the public authorities engaged in land acquisition should have a proper land development and disposal policy. In the matter of land development and disposal the general practice seems to be to allot land only after its proper development by the public authorities themselves. The only exception in this matter pertains to the registered co-operative societies. Most of the replies to the questionnaire have expressed the view that the development of land should not be left in the hands of the private individuals because it cannot be ensured that development by them would be according to the prescribed standards. We too share these views and apprehensions though we at the same time realise that the work of developing land would need large capital outlays and call for vast organisational arrangements. Quite often the public authorities may be able neither to muster resources on a scale commensurate with the overall magnitude of land development programme nor to maintain the required speed with which land should be developed and disposed off.

Land Development Agency

2. Every where there are to be found certain parties holding sizeable areas of land within urbanisable limits and when Government or any other Authority starts acquiring these areas, a plea is taken that the owners of these areas are themselves prepared to develop the land in accordance with the provisions of the Master Plan, if any. If sufficient funds and trained personnel are available with the Development Authorities, it is best to acquire the land, develop and dispose it off in accordance with the principles already discussed above. It is, however, not always possible to muster adequate resources to undertake speedy development to meet the growing needs of the people. Under such circumstances, it is not only useful but essential to introduce the private colonizers into the picture and make the best use of their agency. The question before us was if a recognised private colonizer is allowed to develop and dispose of land, under what terms and conditions should he be allowed to do so. We are of the view that efforts should be made to fit in the private colonizer, Co-operative Societies or other persons holding sizeable areas of land in the overall scheme of "land development & disposal". Obviously, only those who hold sufficiently large areas and which can be considered as viable units for development only should be allowed to carry out internal development. In order, however, to check the activities of the colonizers or Co-operative Societies etc., permitted to develop colonies, it is necessary to acquire the land and then lease it out for development and disposal also charging alongwith premium which may be equal to the cost of compensation

paid for its acquisition under the Land Acquisition Act a charge to cover cost of external development like water supply, sewerage, trunk roads etc., as has been done in the case of Co-operative Societies in Delhi or was proposed to be done in Ghaziabad in U.P. Once the land is acquired and is leased out for purposes of development and disposal on pre-settled terms, it is easier for the Government or Authority responsible for overall development of the area to ensure proper standards of development and also to enforce other conditions regarding subleasing of developed plots etc. There may, however, be certain plot holders, colonizers or even Co-operative Societies holding land at places where large areas may be earmarked or reserved for residential uses while in some cases only a small percentage may be available for this purpose and, therefore, it is suggested that only a certain percentage of the area approved for development through the private agency should be available to the private agency for disposal on pre-determined terms and conditions. In Ghaziabad it was decided to give only 40 per cent of the net developed area to private colonizer or land holder and the balance was to go to a common pool out of which deficit, if any, could also be made up. Once the area was so developed and plots sold out by the colonizer or developer to the actual user of land for construction of houses, the colonizer should fall out of the picture and the actual user should enter into a lease-deed with the Improvement Trust or the Development Authority, as the case may be, on the same terms and conditions as are normally given by the Development Authority in leasing lands directly developed by it. Obviously those who hold only small areas cannot be allowed to undertake development and, therefore, such plots have necessarily to be acquired except that in such cases developed plots of suitable size should be made available to the holders at pre-determined rates. (Similar scheme approved by Government of U.P. for Ghaziabad may be seen at Appendix III).

3. Wherever public authorities wish to undertake the functions of developing land themselves it is highly necessary that they create the required organisation and procure the needed finances so that land development is completed within the shortest possible time. Unduly long delays in releasing land to the market generates pressures on free-hold land elsewhere and pushes up the land prices.

4. In the meantime the public grows restive and becomes critical of the concerned development agency. To minimise the administrative, financial and organisational burden involved in development of land and also to expedite the process of making it available to the public, we suggest that the development agencies may dispose off raw lands to other public authorities, registered co-operative societies registered *bona fide* colonizers and large industrial units in the private and public sectors who have demonstrable capacity to develop land. Where land is so leased, it should be done subject to proper safeguards already mentioned by us.

Lease-Hold Vs Free-Hold

5. In the disposal of land the general practice seems to allot land on lease-hold basis. There are, no doubt, a few public authorities which sell land on free-hold basis. The general consensus of opinion in the replies to the questionnaire seems to favour the adoption of the lease-hold basis. On considering the relative merits of

these two bases we find ourselves fully in favour of disposing of land only on lease-hold basis because lease hold basis allows ownership of land to rest with the Government. It enables the public authorities to exercise a greater degree of control on land and permits greater manoeuvrability in the matter of imposing conditions about the use of land etc. Above all, the lease-hold basis enables the public authorities to capture part of unearned increments in land values at the time of transfer.

6. The terms and conditions stipulated in the lease-deed have the advantage of making it incumbent on the lease-holders to seek prior permission of the concerned public authorities for transfer of land. Here a stipulation may also be made conferring on the public authority the right of pre-emption where the consideration values are *prima facie* understated. The right of pre-emption which was considered untenable as a general provision of law would be perfectly tenable as a condition in the lease-deed. In fact, this condition exists in the lease-deed that the Delhi Administration is executing while disposing off land on lease-hold basis. Another important point which needs to be considered is the period of the lease. In this matter we do not think it proper to lay down any hard and fast rule. All that we wish to emphasise is that the term of the lease should neither be too short to be considered, insecure nor too long to turn the lease-hold into a virtually free-hold arrangement. Generally speaking, a period of 30 years is considered normal with optional renewal up to 90 years. At the time of each renewal the lease money can be enhanced up to $1\frac{1}{2}$ times of the original. Sometimes the lease money or ground rent is fixed at certain percentage of the initial premium paid while in other cases it is fixed on the basis of area.

Minimum & Maximum Plot Sizes

7. We have already underlined the need to have a phased programme of land acquisition, development and disposal. The phased programme must be so formulated that it takes good care of the various needs and of people in the different income groups. It is, therefore, necessary that besides earmarking land for industrial, commercial, residential and public uses the land is subdivided into plots of varying sizes with a minimum and maximum plot size. Minimum limit is necessary to protect the minimum space standards in housing while maximum is desirable to prevent waste of land. In the matter of fixing minima and maxima for industrial and commercial uses great care should be exercised. The industrialists particularly demand plots of sizes which are far in excess of their legitimate present and potential needs. Subsequent to allotment of big plots the tendency is either to waste land by keeping it vacant or to subdivide it for profiteering. Such a tendency should not be encouraged.

Price Policy in Land Disposal :

8. Another significant aspect of land disposal policy relates to prices charged for various uses and from different income groups. From the information at our disposal we observe that some sort of a discriminating price policy is already being practised by most of the public authorities engaged in land development and disposal. The general practice seems to be to allot land by draw of lots to persons in the low

income groups including the slum evictees and by public auction in the case of others. It is also observed that slightly higher prices are charged by the public authorities for commercial and some times industrial uses. We are glad that a discriminating price policy is already being practised. We, nevertheless, feel that there is need to refine the price policy further. We wish to add that the overall objective of price policy should be to help the poorer sections of society and to encourage uses which are in the larger interests of the community like those for schools and playgrounds. At the same time the financial soundness of the scheme as a whole should not be jeopardised.



CHAPTER XIV

ORGANISATION AND ADMINISTRATIVE MACHINERY

1. We have recommended a large number of measures concerning the different aspects of the urban land problems and affecting various public authorities operating at the local and regional level. We have made our recommendation with the full consciousness that any appreciable impact on the problem of urban land will not be possible unless the various measures suggested above are evolved in a co-ordinated manner and enforced simultaneously. Partial acceptance and enforcement of these measures and their isolated enforcement may be discriminatory and may cause more harm than good. Thus, for example, any large scale public acquisition of land may deprive many owners of their land holdings while the pressure of demand may push up land prices in the non-acquired areas benefitting such owners. This example should suffice to emphasise the point we want to make about simultaneous co-ordinated action on all fronts.

2. The implementation of the various measures suggested by us, therefore, calls for an effective organisation and a high degree of administrative and organisational co-ordination, collaboration and concerted action. Under the existing administrative and organisational framework there does not seem to us any one particular public authority which may be considered suitable for the purpose of bringing about the required co-ordination and integration in policies and programmes bearing on urban land, its development, control and planning. The urban local bodies, like the Municipal Corporations, or Municipal authorities being elected bodies with an already wide range of functions and limited resources are not, in our opinion, the proper agencies to whom, may be, entrusted the important functions of land acquisition, development and disposal nor would they be effective enough in bringing about the desired co-ordination in land policy measures of the various agencies involved in any urban area. The Improvement Trusts and the Housing Boards also operate within limited jurisdictions for limited purposes. Even these agencies, constituted as they are today, may not be equal to the task.

3. We are of the view that the task is much more difficult and complex than what can be tackled by isolated agencies and recommend that there should be in every State a statutory high powered Board or Authority which should be the planning and co-ordinating agency for resources regions, metropolitan regions and major urban areas where the problems may transcend the administrative limits of the urban local bodies. We are suggesting that this Board or Authority takes on the planning function in case of such large areas because in the interest of scientific, rational planning it is highly necessary that the overall planning function, as distinct from plan-implementation, is performed by an agency which can take a much more broad, comprehensive and detached view of the problem than is ordinarily possible for any particular local agency or authority which is too subjectively involved in its own limited problems. The recent trends in planning show increased appreciation of the regional

approach. The tendency towards regional planning and development is bound to gain momentum in due course. As the need for regional plans and regional development comes to be recognised the need for the creation of such an Authority will also be felt. The Board/Authority that we have suggested would in those circumstances be found an extremely useful organisation to deal with questions relating to regional planning and development.

4. The need for the creation of an overall planning Authority/Board which would also co-ordinate the development work of various agencies particularly in areas and regions where there may be several local authorities and agencies is all the more essential. In a number of areas particularly the metropolitan cities it is found that there is multiplicity of agencies doing the same work with considerable over-lap and clash of jurisdictions. We recommend that wherever possible this multiplicity of authorities should be done away with and an attempt should be made to rationalise and consolidate them. This authority besides generally guiding and advising the State Governments and the urban local bodies and other agencies involved in the work of development on matters pertaining to urbanisation, urban development and planning would also work as the coordinating agency for planning and development. It will also enforce the plans prepared by it with a view to achieve maximum results in the matter of integrated and co-ordinated planning and development. There may also arise a need for this Authority to undertake the implementation of various development schemes itself. This Authority will also be best suited to have and operate a revolving fund for performance of such functions such as acquisition, development and disposal of land.

5. For the Board/Authority to perform such a wide range of functions it will become necessary for it to set up its units in the areas where it has to operate effectively. The Board/Authority should have a whole-time Chairman, two or three whole-time members to deal with financial, engineering and administrative matters. Besides the whole-time members the Board/Authority should have as its members very senior officers of the concerned State departments including the L.S.G., State Town Planning and the State Public Works Department. One or two members of the Parliament, State Legislature or local authorities should also be taken in as members. The principal executive head of this Board/Authority should be vested with sufficient financial and executive powers to enable him to perform his duties effectively and efficiently.

6. In view of the large responsibility this Board/Authority would be expected to shoulder it would be extremely necessary for it to have a well-equipped team of technical and administrative personnel. Where the Board sets up an agency at the local or regional level it would be useful for the Board to have a local Advisory Committee consisting of the representatives of the urban local bodies, development agencies and other major interests like the railway authorities, defence authorities etc., depending on local circumstances. This Advisory Committee would be a good medium of inter-agency co-operation, collaboration and co-ordination at the local level.

7. Where the State Board/Authority is not in a position to establish its units it may entrust the urban development functions to a suitable local agency such as the Improvement Trust or the Local Improvement Board or in its absence any appropriate local authority. It is important that such a local agency should function under the general direction and control of the State Board to ensure the formulation and execution of proper development policies and programmes in the area. In such instances the State Government should ensure that the Improvement Trust or any other alternative local agency is adequately empowered and properly financed. Even in such cases it would be highly useful for the Improvement Trust or the local agency, as the case may be, to seek inter-agency co-operation and co-ordination through the setting up of Advisory Committee's representing the various interests involved at the local level.

8. Our recommendations on the organisational and administrative machinery aim to ensure that the urban land and development policies do not suffer simply because of lack of an adequate and effective organisational and administrative machinery to enforce and implement the required measures. We do, however, appreciate that our recommendations may need certain modifications in the light of the organisational and administrative arrangements already operating in some States. We would still urge the State Government to so modify our recommendations in case it is found necessary to do so as not to impair their basic character.

Valuation Organisation

9. Establishment of a Valuation Organisation charged with the task of making assessment of properties to be acquired and also for tax-assessment purposes has been suggested as an essential measure to implement the urban land policy. We think this idea has some merit and wish to commend this suggestion to the State Governments for their very sympathetic consideration. We may recall that the establishment of a Valuation Organisation had been recommended by the Local Finance Enquiry Committee, 1951, and the Taxation Enquiry Commission, 1953-54 for purposes of local taxation. Any Valuation Organisation which the State Governments may appoint can certainly be utilised for many related assignments including those concerning assessment of values for land acquisition, levy of conversion tax and measuring of unearned increments. In the event of such Valuation Organisation being established, appeals against their assessments may be referred to the Tribunals which we have earlier recommended.

Conclusion

10. We have already sufficiently emphasized the need for planned and regulated development of urban areas. The problem of urban development is vitally connected with the problems of urban land and its values and it is impossible to conceive of improvement of cities and creation of better living conditions in urban areas without a co-ordinated, bold and realistic approach to the problem. We recommend to the Planning Commission and the Central & State Governments to give adequate attention to the problem of urbanisation, and high priority to town development and improvement and the provision of civic amenities in urban areas and hope that sufficient funds would be provided in the Fourth Five-Year Plan for the purpose. No less important

and urgent is the question of creation of adequate machinery for the implementation of schemes and carrying out suggestions made by us in our report.

(S. M. FAZLUR REHMAN)

Chairman

(S. M. A. MAJID)

(Dr. RAFIQ ZAKARIA)

(PRABODH CHANDRA)

(DHARMA VIRA)

(H. C. DAGA)

(S. DUTT)

(GIAN PRAKASH)

Member-Secretary



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CHAPTER II

SUMMARY OF CONCLUSIONS

Background of the Problem

1. The average per capita availability of land in India is not only comparatively very low but, because of population pressure, it has been declining continuously over successive census decades. In three of the five Census Zones the per capita availability of land is less than the national average of 1·84 acres.
(Para 4 & 5)
2. Our country has at present about 1·1 acres of cultivable land per capita as against 1·2 acres in 1950-51. As population grows, this figure will go on declining as food requirements go on increasing. This trend cannot be viewed complacently.
(Para 7)
3. Analysis of demographic data reveals the relatively fast growth of urban population and urban areas especially of Class I cities. This clearly denotes the lopsided distribution of population as between the urban areas of varying status and the degree of concentration and congestion in the well established major urban areas. Such a situation is undesirable and not conducive to balanced urban development in the country.
(Para 8 & 9)
4. Most of the urban areas, particularly the metropolitan cities, present a pathetic picture of congestion, over-crowding, slums and blight while within many of them utilisation of land is extremely inequitable. A large majority of them lack even basic services like water supply. Housing conditions are extremely depressing. There are huge backlogs in community facilities etc. All these deficiencies have to be removed and better urban living conditions provided at the earliest. Any attempt to do so is bound to have repercussions on the problem of land, its acquisition, development, distribution and use.
(Para 10 to 13)
5. The process of urbanisation and urban development does change the character of land from agricultural to non-agricultural and of the population affected in the process from rural to urban. At the same time urbanisation being a direct consequence of economic and industrial development has an element of inevitability and may even be considered a progressive and desirable development provided it is not allowed to take place in the present chaotic manner.
(Para 14)
6. For urbanisation to be really conducive to economic development and human welfare, it must be well planned and well directed. This pre-supposes that urbanisation policy will be intimately and rationally linked with the industrial and other investment decisions and the location of industries etc. The Planning and direction of urbanisation process will have to be in accordance with the pattern of urban development outlined in the Five-Year-Plans.
(Para 15)

7. With accelerated economic development the problem of towns is becoming more and more acute and unless it is now tackled boldly it will become increasingly difficult and more expensive with the lapse of time. We, therefore, urge the Planning Commission and the State Governments to lay down in the Fourth Five Year Plan in clear terms the policies towards the process of urbanisation and urban development and provide adequate funds for urban development schemes. (Para 15)
8. If a measure of urbanisation is inevitable or desirable the conversion of some land from agricultural to non-agricultural use cannot be helped. Utmost care would, therefore, have to be taken to see that the urbanised land is put to optimum use. (Para 16)



CHAPTER III

NEED FOR A LONG TERM URBAN LAND POLICY

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9. The facts about the declining man-land ratio, the pitiable urban conditions and the urbanisation perspective make it absolutely clear that a comprehensive long range urban land policy is imperative for India today. But without an effective urban land policy, planned development of the urban and the rural areas is quite inconceivable so also the achievement of many a social objective which the country has set before it. (Para 1)
10. While a long range urban land policy is essential and desirable the emphasis on the various objectives or purposes to be served by it will vary from place to place and time to time so also the methods and techniques depending upon the special circumstances and situations to be tackled. These measures, methods and techniques will have to be woven into the texture of the overall programmes and policies for these places. (Para 2)
11. We, however, feel sorry that our country does not yet have a clear urban land policy. The existing legislation concerning the control, regulation and compulsory acquisition of land is far too inadequate in the context of India's changed social setting. It is mainly preoccupied with compulsory acquisition of land. (Para 3)
12. Any blue-print on urban land policy must necessarily cover the multifarious aspects of the problem of urban land in their entirety and find lasting satisfactory solutions for them. This would naturally imply a series of co-ordinated measures—legislative, administrative, financial and planning—to take care of the various aspects of the problem. (Para 3)

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CHAPTER IV

SOCIAL OBJECTIVES OF URBAN LAND POLICY

13. The principal social objectives of urban land policy laid down in TCPO's paper are to :
 - (a) achieve an optimum social use of urban land;
 - (b) make availability of land in adequate quantity, at the right time and for reasonable prices to both the public authorities and the individuals;
 - (c) encourage co-operative community effort and *bona fide* individual builders in the field of land development, housing and construction;
 - (d) prevent concentration of land ownership in few private hands and safeguard specially the interests of the poor and under-privileged sections of urban society. (Para 1)
14. The only known method of organising the land use in the socially desirable optimum manner is that of regional and urban land use planning. Land use planning even when it is focussed on a particular urban area must be regional because from development point of view each community is inter-related in regard to economic, physical and social factors. The administrative limits of the urban areas may not always be coterminous with "planning areas" or areas of socio-economic and cultural interaction. (Para 3)
15. Regional planning offers an approach that may prevent undesirable social effects of urbanisation and permit industrialisation without the growth of unmanageable urban centres and slums.
16. The regional and urban plans should be formulated within the overall frame-work of the National and State Five-Year-Plan policies, objectives and targets. (Para 3)
17. The Third Five-Year-Plan has recommended the broad objective of "balanced development between large, medium-sized and small industries, and between rural and urban areas" and stated the four main ingredients of development policy. These policy directions of the Third Five-Year-Plan can be concretised only through the preparation, enforcement and implementation of comprehensive regional plans. (Para 4)
18. The broad dynamic definition of "urban land" adopted by us also necessitates that in urban planning the concept adopted is regional. (Para 5)
19. The regional planning concept is especially significant for big metropolises and major urban or industrial centres where the solutions of the urban

problems may lie in creating foci of growth in regions where migration originates or in planning and establishing self-contained communities or "ring towns" or "satellites". (Para 5)

20. The fulfilment of the second, third and fourth objective would imply firstly, a policy of effective public control over land particularly through large scale public acquisition; secondly, a rational and equitable compensation policy; thirdly, breaking the stranglehold of speculation in land; fourthly, positive encouragement to *bona fide* builders and co-operatives and lastly, sympathetic treatment to poor and vulnerable sections of society. (Para 6)
21. We find ourselves in full agreement with these social objectives as they are quite consistent with planning principles, national planning goals and the national objectives of a socialist pattern of society. While these social objectives are unexceptionable and must be pursued vigorously, utmost effort should be made to finance, as far as possible, the urban development and improvement programmes out of the urban land resources themselves. In some cases substantial financial assistance may have to be provided by the Central and the State Governments also. (Para 7)



CHAPTER V

CLASSIFICATION OF URBAN LAND

22. Urban land is not a homogeneous mass but 'a heterogeneous structure comprising lands of various descriptions'. A proper classification of urban land is necessary as the nature of problems and their solutions in each distinct category of urban land are bound to be different. (Para 1)
23. The classification of urban land into the following four broad categories has much to commend itself;
- (a) Developed Urban Land *i.e.*, land within the city limits which is developed and largely built upon. There may be some vacant plots within it which would also fall in this category.
 - (b) Undeveloped Urban Land, *i.e.*, land within the city limits at any point of time which is not yet developed and built upon.
 - (c) Land within the Urbanisable Limits, *i.e.*, land presently agricultural or un-urbanised but likely to get urbanised within the next 10 or 15 years.
 - (d) Land beyond the Urbanised Limits. This would naturally be purely rural land and the greater its distance from the city limits the lesser would it be subject to the forces of rural-urban interaction. (Para 1)
24. To this classification we wish to suggest the addition of the following category which we treat as separate and distinct because the problems it raises are somewhat different than in the other categories and call for special attention.

Land the use of which is frozen as green belt or for agricultural purposes and also land which is reserved for community use. (Para 1)

CHAPTER VI

MEASURES FOR DEVELOPED URBAN LAND

25. In developed urban land the major problems are : congestion and over-crowding, blight and slums, non-conforming uses, lack of civic services and community facilities, rising land prices, growing unearned increments and underutilization of land. The measures required to tackle these problems are master plans, zoning regulations, effective enforcement of municipal bye-laws and urban renewal schemes. (Para 1)
26. It is a pity that in a country which has advanced in the field of national economic planning, regional and urban land use planning should still be in a nascent stage. We need hardly emphasise that the preparation of comprehensive regional and urban plans and programmes deserves very high priority if urban development has to be guided, as it must be, along right lines. (Para 2)
27. Regional and/or urban master plans prepared with comprehension in approach and thoroughness in details and implemented with undaunted determination are the best guarantee to ensure optimum use of the scarce land resource of the nation. These are also the best means to make the urban areas more healthy, comfortable and functionally efficient entities. (Para 2)
28. We strongly recommend that the State Governments strengthen their Town Planning Departments and have Master Plans prepared at the earliest for all their growing urban areas. Where the preparation of Master Plans is likely to take time, interim or outline development plans should be prepared urgently. The State Governments will be well advised to seek the technical assistance of TCPO in this matter. (Para 2)
29. We recommend that the Union Government extend liberal financial help to the State Governments and Local Authorities not only for the preparation but also for the implementation of Master Plans. (Para 2)
30. It is very necessary that the State Governments have a town planning law based on modern scientific concepts of planning. It should, *inter alia*, enable the preparation and enforcement of regional plans. Those States which do not yet have an up-to-date Town Planning Act should expeditiously enact such a law. (Para 2)
31. In order to enable the State Governments and local authorities to plan their cities and regions it is necessary to provide sufficiently large number of town planners. This calls for increase in the facilities for their training. We recommend that the Central Government should establish a number of regional training institutions. Wherever, the Central Government are unable to establish such institutions themselves, they should offer generous financial assistance to the States for the purpose. (Para 3)

32. There is need also to improve the quality of training imparted to the students of town planning courses. The implementation aspects should be given adequate emphasis in the training. (Para 3)
33. More important than the preparation of plans is their implementation. One of the best methods to ensure that the master plans are implemented is to prepare simultaneously with the land use plan a capital improvement programme and a fiscal plan. The same can be evolved into or integrated with the city development plan (Programme) envisaged by the Planning Commission. The City Development Plans should, as Planning Commission also desires, be integrated in an organic way with the State Five Year Plans. (Paras 4 & 5)
34. We very strongly recommend that the State Governments issue necessary directives to their town planning, local self-government and planning departments to prepare city development plans (Programmes) for every urban area and particularly that for which a master plan has been prepared. The State Governments may very well benefit from the experience of the Town & Country Planning Organisation, Ministry of Health, on this subject. (Para 6)
35. Zoning and Sub-division Regulations are not in vogue in this country. We would like to recommend that the State Governments and their town planning organisations give serious thought to evolving zoning and sub-division regulations and making them applicable within the jurisdiction of all urban local bodies. The draft zoning regulations evolved by the TCPO and the zoning provisions forming a part of the Master Plan for Delhi could well form the basis for the State Governments to start with. The TCPO's assistance in this task would be available to the State Governments and we hope they will make good use of the same. (Paras 7 & 8)
36. Where municipal bye-laws and zoning regulations are not compatible, the municipal bye-laws should be revised suitably. The Town Planning Acts should also include a provision that the municipal bye-laws conform with zoning and sub-division regulations. The State Town Planning Departments should assist the local bodies in having the municipal bye-laws revised suitably. (Para 9)
37. We suggest that the State Governments appoint expert committees to modernise the municipal building bye-laws so that they lend support to Master Plans and zoning regulations. (Para 10)
38. There is a good deal of merit in the suggestion that municipal licensing system should be made comprehensive so as to cover, as far as possible, every viable unit of trade, business and industry located within the municipal jurisdiction. A good comprehensive municipal licensing system would, through the exercise of licensing powers help prevent blight and slums, aid the enforcement of land use plans and give greater regulatory powers

particularly over-industrial units not covered either by the Industries Development & Regulation Act or the Factories Act. Implementation of this suggestion may need amendment of the municipal acts. (Para 11)

39. In evolving and enforcing such a licensing system the urban local bodies should establish close co-ordination with the authorities administering the Shops and Commercial Establishments Act, the Factories Act and the Sales & Excise Taxes. (Para 12)

40. To tackle the problems of the congested and overcrowded areas three alternatives may be considered, namely (1) wholesale demolition and thorough redevelopment; (2) a programme of selective urban renewal; and (3) a programme of gradual improvement. (Para 13)

41. Wholesale demolition and redevelopment of large built up areas, particularly those which are historically old, will mean sudden displacement of thousands of families and their rehabilitation at any other place would confront the public authorities with administrative, economic and human problems of stupendous magnitude. Such a programme is, therefore, practically out of the question. (Para 14)

42. Urban renewal is a good comprehensive concept. Under this programme the present thoroughly decayed or deteriorated urban areas, particularly in the old but central parts of the cities and towns could be redeveloped to their optimum capacity without extra expenditure on services. Urban renewal programme in the context of the overcrowded areas of big cities should be instrumental in reducing the densities and making available the much needed open spaces. (Para 15)

43. We are inclined to suggest that it may be a good idea to try the programme of urban renewal on a pilot basis in some selected urban areas. Preference in urban renewal projects should, in the first instance, be given to the presently underutilised but potentially valuable pockets of land in cities and towns. Wherever urban renewal is tried it should be done as an integral part of the land use plan and city development plan (programme) mentioned earlier. The Union Government should give reasonable financial assistance to the State Governments for approved urban renewal projects. (Para 16)

44. The third alternative has significance for most of our urban areas, specially the metropolitan cities. This alternative envisages undertaking measures like provision of water taps and drains, minimum necessary street pattern and community facilities etc., or the toning up of the environment with the least possible dislocation. (Para 17)

45. The Municipal and/or development authorities should have for the congested areas (1) a systematic policy of gradual decongestion and (2) detailed long-term redevelopment schemes ready, so that new developments fall into the pattern envisaged for the future. (Para 17)

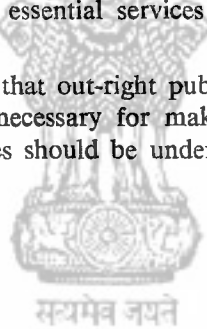
46. In the context of our economic and financial limitation such a gradual but steady improvement programme seems to us the most economical and practicable way of making a dent on the physical living conditions of the vast majority of people living in overcrowded localities. (Para 17)
47. A majority of the houses in the congested areas are substandard. Most of them being rent controlled and the rents from them being very low, the owners have hardly any incentive to improve these houses. The programme should not therefore be confined to toning up of the environment only. In those cases where the improvement depends upon the co-operation of the land owner, as for example, in converting dry latrines into water-borne flush latrines, a combination of incentive, coercion and financial assistance may be tried. Financial assistance may be particularly necessary in the case of property owners in the every low income brackets. (Paras 18 & 19)
48. As rent control laws are responsible for hampering urban development and optimum utilisation of land, there is a strong case for revising and rationalising the system of rent control. If the rent laws could be suitably amended permitting eviction of the tenants by the landlords in the event of the latter undertaking to redevelop the properties to the optimum capacity in accordance with the Plans and programmes of development, at least in the big cities, most of the landlords would be willing to redevelop their land and construct modern buildings thereon. This will lead to fuller and proper utilisation of land and will be in the interest of the community. We, therefore, recommend that suitable provisions in the Rent Control Acts for the eviction of tenants from old and dilapidated buildings should be made. (Paras 20 & 21)
49. Such eviction will, however, cause hardship to a number of old tenants paying nominal rents and, therefore, some reasonable compensation not exceeding five years' rental may be paid to them in order to facilitate their rehabilitation at other places. In the alternative the evicted tenants could be given an option to occupy portions of the newly constructed buildings on controlled rents. The local authorities may also, if possible, provide some transit accommodation for such tenants to mitigate their hardship. (Para 22)
50. In regard to sub-letting of the premises also the Rent Control Legislation should be amended to discourage, to the maximum extent possible, such a practice. (Para 22)
51. In so far as the "non-conforming uses" are concerned, the obnoxious or hazardous uses should be immediately removed. For others there should be a phased programme of removal depending upon the period of grace granted to them. To expedite their shifting to proper locations, they could be subjected to reasonable administrative and financial measures and denial of facilities for further expansion. Some positive inducements, like tax

relief for a few years or a more lenient treatment in the grant of power supply and loan assistance, will also have to be given. (Para 23)

52. In cases where non-conforming uses do not shift even after the period of grace, prosecutions should be launched and recurring fines for each day of non-conforming use imposed in addition to any other penalty that may be prescribed by the law. (Para 23)

53. Vacant sites amount to wasteful non-utilisation of land and services. We unreservedly endorse the idea of subjecting them to normal municipal property taxes. As regards the imposition of a penal tax on vacant sites, a large number of the owners of vacant sites, keen on constructing houses, find themselves quite helpless because they do not get the building materials. In quite a few cases the vacancy may be for other *bona fide* reasons like poverty and lack of finances. Under these circumstances we would suggest: firstly that there should be a limit to the size up to which a vacant plot may not be subjected to a penal tax. For plots and sites beyond the exempted size a penal tax should be levied after five years from the time all essential services have been made available. (Paras 24 to 26)

54. We should also recommend that out-right public acquisition of vacant sites, where these are absolutely necessary for making good the deficiencies in regard to community facilities should be undertaken. (Para 26)



CHAPTER VII

MEASURES FOR UNDEVELOPED URBAN LAND

55. Within many municipal limits there is undeveloped land on which premature spotty development takes place. This development is wasteful of land and of a substandard nature. It necessitates the stretching of roads and utility services. Such a state of affairs is neither in the interest of the public authorities nor the individuals. Premature spotty development, should, therefore, be discouraged and compact development promoted.

(Para 1)

56. In most of the urban areas, particularly the bigger ones, spotty development generally takes place because of narrowly conceived and uncoordinated activities of the various public authorities themselves. To the extent the scattered spotty development is due to this factor, better coordination among the developments and authorities and the State Town Planning Department could considerably ease the problem.

(Para 2)

57. Where individual developer is responsible for scattered spot development, imposition of stringent conditions subject to which alone development or construction may be permitted outside of the compact area seems the only way to improve the situation.

(Para 2)

58. The programmes of public utilities and community facilities should be so evolved as to be consistent with the idea of encouraging compact development. Future development in the presently undeveloped areas should be on the basis of planned neighbourhoods forming an integral part of the master plan of the city, if one exists.

(Para 3)

59. Speculative transfers take place on a substantial scale in undeveloped land lying within the municipal limits. But as the obligation to obtain prior permission for each transfer with a view to prevent speculation is considered untenable on constitutional grounds the imposition of a levy on such transfers is the only alternative. Such a levy should be imposed in the form of a conversion tax. Where the transfer involves non-agricultural land the development tax should be levied.

(Para 4)

CHAPTER VIII

MEASURES FOR URBANISABLE LIMITS

60. Urbanisable land beyond the city limits is vulnerable to haphazard growth, particularly along the highways. Over this land industrial units also come to be established in a chaotic manner. The suggested measures for this category of land are : (1) extension of the municipal limits to cover the urbanisable area and (2) declaring the area as a "controlled" one as has been done under the Chandigarh Periphery Control Act. (Paras 1 & 2)
61. We see no objection in generally agreeing with the above suggestions. We are, however, afraid that in actual practice extension of municipal limits may not always be workable. We would, therefore, suggest a cautious approach in the matter. Each case of extension of municipal limits should be decided on its merits. (Para 3)
62. Where extension of municipal limits is not feasible or immediately desirable municipal jurisdiction in the matter of essential planning controls could be extended up to five miles beyond the municipal limits. The other alternative of declaring the area as controlled also appeals to us but we would leave the discretion of either using the Municipal Act or having a separate legislation for the purpose to the State Governments. (Para 3)
63. To check speculative increases in land prices within urbanisable limits and for other reasons of development it is necessary that public authorities gain ownership of land either through mutual negotiations or through compulsory acquisition. Weighing the pros and cons of these two alternatives we are of the view that the purchase of land through negotiations may bristle with too many formidable difficulties. (Paras 4 & 5)

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CHAPTER IX

MEASURES FOR LAND BEYOND URBANISABLE LIMITS

64. The use of land beyond the urbanisable limits should be governed by a regional land use plan. Even where a regional plan does not exist some simple special interim measures are necessary to exercise control over major developments. (Para 1)
65. While the setting up of small agro-industrial units in this category of land may be permitted, large industrial units which are likely to change the character of the area should not be allowed in a haphazard manner but strictly in accordance with regional land use plan. (Para 1)
66. In the matter of establishing industrial units there is certainly a great need for co-ordination between concerned rural local body, the urban local body, Director of Industries and the Town Planner of the State Government. Wherever, such industrial units come up in accordance with the regional land use plan or subject to other safeguards, the rural local body concerned should subject them to adequate taxation, licensing and other controls. (Para 1)
67. Where some regions show signs of extraordinarily rapid development, it is desirable that early steps are taken to regulate growth of buildings etc., by creating an overall authority controlling development activities therein. (Para 2)
68. It is suggested that necessary legislation for controlling ribbon development along highways should be passed by all State Governments as soon as possible and more important than that enforced efficiently. The Executive Engineer of the appropriate authority should be made responsible for watching developments along the highways and given summary powers of demolition. (Para 3)

CHAPTER X

MEASURES FOR MOPPING UP UNEARNED INCREASES

69. Unearned increments in urban land and property values being in the nature of social surpluses must be mopped up for the benefit of the society as a whole. The Third-Five-Year-Plan recommends the mopping up of these unearned increases to combat speculation and as a measure to achieve social and economic equity. We also unreservedly endorse this idea.
(Para 1)
70. While there is every justification in siphoning off unearned increases the real difficulty comes up in deciding a suitable measure or measures therefor. The measures discussed in the following paragraphs have, however, been considered.
(Paras 2 & 3)
71. Theoretically enhancement of stamp duty or the levy of an additional surcharge on it should be helpful in mopping up unearned increments. This duty is already being levied almost everywhere in India but its yield is hardly significant partly because of the rate of surcharge being low but mainly because of the widespread deplorable tendency to understate the consideration values. Unfortunately there does not seem any effective check against this evil practice. Enhancing the Stamp Duty or the rate of surcharge thereon may, we are afraid, accentuate the tendency to underquote the valuations in registration. Assessing the measure as a whole, surcharge on Stamp Duty may not be an effective instrument for mopping up unearned increases.
(Paras 4 & 5)
72. Development charge is payable when a land use is instituted or changed or when any 'development' is carried out. Not being based on *quid pro quo*, the West Bengal Government had doubted its legality unless it was imposed by way of a tax. Even by making it a tax the problem is not solved and a number of handicaps, like its overlap with other property taxes, inability to operate unless development is applied for and discouraging effects on the process of development, limit its usefulness. We, therefore, feel that while a modest development charge may attend the grant of planning permission, subject to its co-ordination with other local and State taxes on property much reliance on it cannot be placed in so far as the larger question of mopping up unearned increases is concerned.
(Paras 6 & 7)
73. The general experience of betterment levy, already being collected under some State Town Planning Acts, is reported to have been not very happy. Due to difficulties in its administration and applicability to limited areas betterment levy as a general measure for mopping up unearned increases does not appear to be satisfactory.
(Para 8)

74. A tax on conversion of land from agricultural to non-agricultural use could be useful device in so far as the lands around urban areas are concerned where the extent of speculation is more than anywhere else. We recommend the adoption of this tax and further suggest that it should have a differential rate schedule for conversions to residential, commercial and industrial uses. Being a measure of limited application we would like the Conversion Tax to be accompanied by some broad-based measure having universal application. (Para 9)
75. An annual tax on unearned increments suggested in the TCPO's Note on Urban Land Policy, has, no doubt, many more merits than in other measures. Such a tax would be quite broad-based and effective. The practical difficulties attending such a levy are bound to be quite serious. The question of its levy may, nevertheless, be examined by the Central Government. We are of the view that rather than having a new tax the existing taxes should be so framed as to mop up unearned increases to the maximum extent possible. (Paras 10 & 10-A)
76. As regards changing the basis of municipal property taxation from annual to capital value, it is very difficult for us to hazard any definite views on this subject. All that we may observe is that there is definitely an urgent need to rationalise the system of municipal property taxation. (Para 11)
77. Another related issue is separate rating of site and development and the application of lower rates on development and graduated higher rates on site value. As this measure will introduce drastic changes in the system of municipal property taxation, necessitate complex valuation machinery and give rise to many administrative difficulties, we are not inclined to endorse it. (Para 12)

CHAPTER XI

OTHER ANTI-SPECULATION MEASURES

78. One of the major issues in urban land policy concerns speculation in land. We fully share the view that no proper solution of the urban land problem would be possible so long as wide-spread speculation in land continues. (Para 1)
79. Besides other measures discussed earlier, TCPO's Note suggested that the public authorities assume the right of pre-emption at the price indicated by the owner. Even though we appreciate its effectiveness as an anti-speculation measure, we are unable to recommend pre-emption because legal experts consider it too serious an infringement of Article 19 of the Constitution.
80. Though the enforcement of a ceiling on urban land holdings bristles with numerous complications, yet we feel very strongly that the idea should in principle be accepted and implemented in all new allotments of land made by the public authorities hereafter for residential purposes. (Para 4)
81. The public authorities must make it a policy (i) of not allotting a plot of residential land to one who already owns a residential plot in the urban area and (ii) of not allotting to any one individual land beyond a reasonable maximum size. Exemption from this rule may, however, be given to (i) registered organisations like the co-operatives and public or private limited concerns engaged in the business of land development and disposal; (ii) persons constructing dwellings, group houses or flats for rental purposes and (iii) people living in congested localities or in houses built on very small plots or those owning a small share in joint family houses. (Para 4)
82. Though theoretically there is nothing wrong in prescribing a time limit for completing constructions, yet in view of the prevailing shortage of building materials we feel that such a limit should not exceed five years after the services have been provided. Only thereafter should a heavy tax, increasing with the passage of time, be made applicable. (Para 5)

CHAPTER XII

LAND ACQUISITION—PROCEDURE AND COMPENSATION POLICY

83. The most complex but crucial of the problems of urban land policy relates to compulsory public acquisition of land. It has been suggested that large scale public acquisition of land should be undertaken in the undeveloped areas and in areas within the urbanisable limits. We, too are of the view that there is no escape from it. We would even observe that it would really be in the best interest of the society as a whole. It is by far the best and perhaps the only way to put an end to speculation in land, capture subsequent increases in land values, enable proper planned development and use of land and to enable the public sector to extend its control over vital land resources. (Para 1)
84. Advance acquisition of land could be possible by the Government notifying under Section 4 of the Land Acquisition Act the entire area of land it wishes ultimately to acquire. While there is no legal impediment to freezing large areas, we do not feel quite happy that large areas should be notified for acquisition and the actual possession of the same should be taken after the lapse of a number of years. At the same time we cannot resile from the stand that large scale advance acquisition is necessary and desirable. We have, therefore, to strike a proper balance in reconciling this conflict between the social and the private interest. (Para 2)
85. Our suggestion is that Government may notify in advance large areas for acquisition. But where the Government fails to take possession of the land within a period of five years, it should assume the liability of paying, in addition to the compensation, interest on the amount of compensation at the bank rate for the period in excess of the first five years from the date of notification. As this is not permissible under the Land Acquisition Act of 1894, necessary amendment to the Act should be made. Considering the fact that the land after notification remains (till taken possession of by Govt.) in the possession of the owner who can continue using it, payment of interest should be a more than adequate recompense for losses, if any, sustained by him due to uncertainty. On the other hand, liability to pay interest would deter the Government from erring on the side of excess in notifying land for acquisition. (Para 3)
86. Even though large scale advance acquisition of land is within the realm of feasibility, we would like the public authorities to undertake this systematically. They should assess the land requirements for a few years and evolve phased annual programmes for acquiring, developing and disposing off land. (Para 4)
87. We consider it desirable that instead of different local bodies and development agencies handling the work of land acquisition etc., each in a limited

isolated way, these functions could be better performed by a high powered Board or Authority. The problem of finances may also be easier in the case of the Board/Authority. (Para 5)

88. By and large, compulsory public acquisition of land is governed by the Land Acquisition Act of 1894. There are a few special acts also under which land can be acquired. It is, however, found that the acquisition provisions of the special Acts have not generally been utilised. (Para 6)
89. The non-utilisation of the special provisions governing acquisition indicates the inherent practical difficulties in making any departures from the general practice of paying compensation as provided in the Land Acquisition Act. We are convinced that there should not be separate enactments governing the acquisition of land as the use of separate enactments embodying different compensation formulae may be accused of being highly discriminatory, legally untenable and socially undesirable. The only exception to this should be the Acts governing Slum Clearance. (Para 7)
90. Experience all over the country shows that the entire procedure of acquiring land is highly dilatory with the result that work on projects of public interest suffers. The Law Commission have also made a pointed reference to these procedural delays. (Para 9)
91. The Law Commission have suggested a few amendments to the existing land acquisition Act to make the acquisition proceedings more expeditious. The Commission have, in fact tried to stipulate a definite time limit for each step in the acquisition proceedings and an overall time limit for the completion of the proceedings by the Land Acquisition Officer. (Para 10)
92. The suggestions made by the Law Commission are, no doubt, good but even after incorporating them delays in acquisition proceedings are likely to be considerable. The Commission have themselves suggested the appointment of special courts where public authorities undertake large scale acquisition of land. We feel that in addition to special courts for disposing of references arising out of cases of land acquisition, special land acquisition officers dealing exclusively with this job should be appointed. (Para 11)
93. A point for our consideration was whether references against compensation awards should be made to the ordinary law courts or to Tribunals presided over by a person of the rank of not less than a District Judge and consisting of an assessor, estimator and other experts like engineers etc. We are greatly impressed with the idea of such Tribunals as these are so constituted as to have special expertise on valuation problems and would help in reducing delays in deciding references by simplifying the procedures of hearings, evidence etc. Some members of our Committee do not, however, approve of the Tribunals and desire the ordinary law courts to continue deciding such cases. They suggest that wherever large scale acquisition of land is

involved special judges' courts in requisite number should be appointed to deal exclusively with land acquisition references. (Para 12)

94. The Land Acquisition Act of 1894 enjoins that compensation should be based on 'market value' of land as on the date of preliminary notification under Section 4. In addition, section 23(2) of the Act requires a solatium of 15 per cent to be given. The Law Commission have recommended the continuance of both market value and solatium. (Para 13)
95. As against the Law Commission's recommendations, TCPO's Note on Urban Land Policy contends that by paying compensation based on market value the public exchequer makes payment not only for the actual worth of land but also for unearned increases and speculative values, and that only way in which accumulated unearned increments and potential development values could be removed from the compensation-calculus was to peg land values to some 'earlier date' subjected to further necessary modifications. (Para 14)
96. We would not deny that the above arguments against market value are quite well founded and that one of the ways to rid the compensation liability of illegitimate speculative elements is to ante-date compensation. We were skeptical that ante-dating may not be held constitutional and legal. The position would appear to be that if ante-dating is such as to render compensation illusory or to be no principle of compensation at all it would be unconstitutional; but if it is rational and bears some proximate relationship with and relevance to the date of preliminary notification under section 4 it would not be bad. (Para 15)
97. Even though ante-dating may be legally feasible in actual practice it will be extremely difficult to fix any particular date or dates to which compensation should be pegged down. This practical difficulty apart, the need for ante-dating does not arise once large scale advance acquisition of land is undertaken. The effect of large scale advance acquisition is practically the same as that of ante-dating compensation. Of the two alternatives we prefer advance acquisition to ante-dating. There, however, may be instances where subsequent to the publication by the Government its intention to undertake a scheme or to prepare a master plan speculative activity may precede Govt.'s notification for acquisition. In such cases which, in our opinion, should be an exception rather than the rule, the compensation may well be ante-dated to rid the compensation liability of speculative increases in land values. (Para 16)
98. Another related issue is the question of compensation for areas shown as open spaces, parks and gardens or reserved for similar community uses in the Master Plans. Once land is earmarked for such a use the owner is deprived of his right to develop the property. Under the existing law no compensation for it is payable and the provisions are that such lands should

be acquired by the public authorities. Where public authorities are under a legal obligation to acquire such plots of land a time limit within which they should do so must, however, be stipulated. A time limit of 10 years is considered reasonable by us. (Para 17)

99. The provision of solatium does not exist in the special acts and a majority of the public authorities do not consider it necessary to give any solatium. The Law Commission have, on the other hand, recommended the payment of solatium. (Para 18)

100. We are of the view that the payment of solatium should not be necessary or justified in each and every case of public acquisition. We are more inclined to treat this issue as a part of the larger problem of rehabilitation of the dispossessed persons. In any acquisition proceedings each and every individual will not need public assistance in getting rehabilitated. It is, therefore, desirable that simultaneously with the launching of acquisition proceedings a proper survey is made to identify and classify people who would need to be rehabilitated. Suitable measures (mentioned in the report) for their rehabilitation should be undertaken. (Para 19)

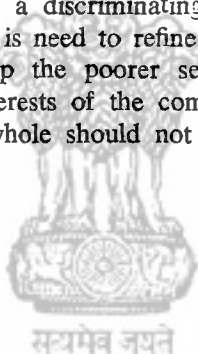


CHAPTER XIII

LAND DEVELOPMENT AND DISPOSAL POLICY

101. It is imperative that public authorities engaged in land acquisition should have a proper land development and disposal policy. (Para 1)
102. In land development and disposal the general practice seems to be to allot land after its proper development by the public authorities themselves. It has been stated that development of land should not be left in private hands because development cannot be ensured according to prescribed standards. We too share these apprehensions. We, however, realise that quite often the public authorities may be able neither to muster sufficient resources nor to maintain the required speed with which land should be developed and disposed off. (Para 1)
103. In the above context it is not only useful but essential to make the best use of the agency of private colonisers, co-operative societies or other persons holding sizeable areas of land. (Para 2)
104. In order to check the activities of those permitted to develop colonies it is necessary to acquire land and then lease it out to them for development and disposal also charging along with premium the cost of external development. (Para 2)
105. Only a certain percentage of the area approved for development through the private agency should be available to it for disposal on predetermined terms and conditions. After the developer's selling the land to the actual user, the latter should enter into a lease-deed with the Improvement Trust or the Development Authority. (Para 2)
106. Where public authorities undertake to develop land themselves, it is highly necessary that they create the required organisation and procure the needed finances so that land development is completed expeditiously. (Para 3)
107. To minimise the administrative, financial and organisational burden involved in the development of land and to expedite the process of making it available to the public, development agencies may dispose of raw land to other public authorities, registered co-operative societies and registered bonafide colonisers subject to proper safeguards. (Para 4)
108. On considering the relative merits of lease-hold and free-hold, we fully favour the former because it retains the ownership of land with the Government, allows greater control and manoeuvrability and enables the public authorities to capture part of unearned increments in land values at the time of transfer. (Para 5)

109. The terms and conditions in the lease deed should, among other things, (1) make it incumbent on the lease-holder to obtain prior permission for transfer of land; (2) provide for re-capture of unearned increment and (3) stipulate the right of pre-emption exercisable by the public authority in cases where consideration values are *prima-facie* understated. As regards the period of lease, generally speaking, a period of 30 years is considered normal with optional renewal upto 90 years. At the time of each renewal the lease money could be enhanced upto one and a half times of the original. (Para 6)
110. In executing the programme of land disposal, adequate land should be earmarked for industrial, commercial and other uses and the land properly subdivided subject to a minimum and maximum plot size. Great care should be exercised in fixing the minimum and maximum plot sizes for industrial and commercial uses. (Para 7)
111. Another significant aspect of land disposal policy relate to price policy. We are glad that some sort of a discriminating price policy is already being practised. There, however, is need to refine the policy further. Its overall objective should be to help the poorer sections and to encourage uses which are in the larger interests of the community. The financial soundness of the Scheme as a whole should not however be jeopardised. (Para 8)



CHAPTER XIV

ORGANISATIONAL AND ADMINISTRATIVE MACHINERY

112. Unless the various measures suggested by us are evolved in a co-ordinated manner and enforced simultaneously it will not be possible to make any impact on the problem of urban land. Partial acceptance and enforcement of these measures may be discriminatory and cause more harm than good.
(Para 1)
113. The implementation of the various measures suggested by us calls for an effective organisation and a high degree of administrative and organisational co-ordination, collaboration and concerted action. Under the existing administrative and organisational framework there does not seem any particular public authority which may be considered suitable for the purpose of bringing about the required co-ordination and integration in policies and programmes bearing on urban land problems.
(Para 2)
114. We are of the view that the task is much more difficult than what can be tackled by isolated agencies and recommend that there should be in every state a statutory high powered Board or Authority which should be the planning and co-ordinating agency for resource and metropolitan regions and major urban areas where the problems may transcend the local jurisdictions.
(Para 3)
115. In a number of areas it is found that there is multiplicity of agencies doing same work with considerable overlap and clash of jurisdictions. We recommend that wherever, possible this multiplicity of authorities should be done away with, and an attempt made to rationalise and consolidate them. This authority besides generally guiding and advising State Governments, urban local bodies and development agencies on matters pertaining to urbanisation, urban development and planning would work as the co-ordinating agency for planning and development. It will also enforce the plans prepared by it and may also undertake the implementation of various development schemes itself.
(Para 4)
116. For the Board/Authority to perform such a wide range of functions it will become necessary for it to set up its units in the areas where it has to operate effectively. The Board/Authority should have a whole-time Chairman, two or three whole-time members. Besides it should have as its members very senior officers of the concerned State departments and one or two members of the Parliament, State Legislature or local authorities. Its principal executive head should be vested with sufficient financial and executive powers.
(Para 5)
117. In view of its large responsibility this Board/Authority should have a well-equipped team of technical and administrative personnel. Where the Board sets up an agency at the local or regional level it would be useful to have a local Advisory Committee.
(Para 6)

118. Where the State Board/Authority is not in a position to establish its units it may entrust the urban development functions to a suitable local agency subject to its general direction and control. In such instances the State Government should ensure that the local agency is adequately empowered and properly financed. Even here a local Advisory Committee would be highly useful to seek inter-agency co-operation and co-ordination. (Para 7)
119. Our recommendations may need certain modifications. We would still urge the State Governments to so modify our recommendations as not to impair their basic character. (Para 8)
120. The idea of a Valuation Organisation has some merit and we wish to commend it to the State Governments for their very sympathetic consideration. Such an Organisation can certainly be utilised for many related assignments. If Valuation Organisations are established, appeals against their assessments may be referred to the Tribunal recommended earlier. (Para 9)
121. We recommend to the Planning Commission and the Central and State Governments to give adequate attention to the problems of urbanisation, and high priority to town development and improvement and hope that sufficient funds would be provided in the Fourth Five-Year-Plan for the purpose. No less important and urgent is the question of creation of adequate machinery for the implementation of schemes and carrying out suggestions made in our report. (Para 10)





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APPENDIX 1

COMMITTEE ON URBAN LAND POLICY

State Town Planning Ministers Conference, Ministry of Health, Government of India

QUESTIONNAIRE

LAW RELATING TO ACQUISITION AND CONTROL OF LAND

1. (a) A list of Acts relating to land acquisition, drawn up on the basis of available information is at Appendices No. I and II of this questionnaire. Will you kindly state if there is/are any other Act/Acts relating to land acquisition on the statute book in your State?
- (b) Please indicate the area of land acquired for urban development schemes by you during the last 3 years under special Acts, *i.e.*, Act other than the Land Acquisition Act, 1894.
- (c) If frequent use has not been made of the special Acts, what were the precise reasons for not doing so?
2. Do you consider it desirable that in public acquisition of land there should be different rates of compensation in respect of the following?
 - (i) rural areas and urban/urbanisable areas,
 - (ii) different purposes, *e.g.*, slum clearance, town planning, road widening, community facilities, public utilities, green belts etc.,
 - (iii) acquisition of small areas and large-scale acquisition.
3. (i) Do you have or are you aware of any Act or Acts (including the Acts governing the local bodies, town planning etc.,) under which the State Government is empowered to :
 - (a) regulate and control the use of land;
 - (b) freeze the use of land;
 - (c) stop haphazard growth;
 - (d) control ribbon development along highways;
 - (e) control sub-divisions.

Please mention the relevant law.

- (ii) Do these Acts envisage payment of compensation where the use of land is (i) frozen, (ii) controlled or regulated? Please state briefly the provisions governing compensation in such cases mentioning the relevant section also wherever possible.
- (iii) Have the Acts mentioned in (i) been enforced and if so, with what measure of success?
- (iv) If you are of the view that these laws cannot or have not been successfully enforced, please state reasons.
4. (a) Is there any law under which execution of underground works, such as laying watermains, sewer lines etc., is permitted without resorting to acquisition of private land? If so, please give details of such provisions.
- (b) If not, is there any need for some such provisions?
5. (a) Do you think that the appointment of separate special land acquisition officers and special courts for disposing of appeals arising out of cases of land acquisition could help in reducing the time lag between the issue of preliminary notification and taking of possession of land?

- (b) Can you suggest any other measures which may lead to the expeditious acquisition of land under the law ?
- (a) What is the agency to determine the market value or for evaluating improvements ? Is it done through the Public Works Department or revenue officials or through a separate Valuation Organisation ?
- (b) (i) In case a separate Valuation Organisation does not exist for the above mentioned purpose, would you recommend the setting up of such an Organisation ?
- (ii) If you agree with b(i) what should be the composition of such an Organisation ?
- (iii) Should there be a Valuation Tribunal also to hear appeals against the assessments made by the Valuation Organisation ? If so, what should be its composition ?

PROBLEMS OF COMPENSATION AND VALUATION IN LAND ACQUISITION

7. (a) On what principles and in what manner is the amount of compensation determined when land is acquired by the Government under special Acts ? Please describe those principles with reference to the relevant sections of the concerning Act in your State.
- (b) Is there any Act under which compensation is determined on the basis of the use to which the land was put at the time of preliminary notification of the land for acquisition ? If so, please mention the Act/Acts and the relevant sections thereof.
8. Which of the following four principles of compensation do you consider the best and why ?
 - (a) market value and with reference to what date;
 - (b) use value;
 - (c) ante-dated market value; and
 - (d) land revenue, rental value or income from land.
9. (a) Which of the Acts contain a provision in regard to the payment of solatium ? If so, please :
 - (i) name the particular Act and its relevant section and
 - (ii) state the rate of solatium paid.
- (b) Do you consider it necessary and justifiable to pay solatium in every case of acquisition for urban development schemes ? If so, at what rate ? Please also state the reasons.
10. (a) Was any difficulty experienced in procuring land belonging to the Central Government for urban development purposes ? If so, of what type ?
- (b) How is compensation in such cases determined in respect of
 - (a) Land
 - (b) Buildings
 - (c) Other improvements.
11. (a) Where Nazul land is needed for the purposes of the local bodies or other agencies how and at what rate is the compensation in such cases determined ? Is the compensation based on market value or on some other formula ? Please specify.
- (b) In cases where the Nazul land is already leased out to third parties, what compensation, if any, is given to lessees or tenants ? How is it determined ?
12. (a) Have any cases come to your notice where the law courts have at a later date, i.e., even after the acquired land has been disposed of, revised upwards the amount of compensation initially paid by the Government ?
- (b) If so, how did the upward revision of compensation affect the development programme and how was the situation tackled ?

13. How are the sale prices of small plots applied to determine the market value of large areas? How are the factors of situation, approach, levels etc., taken into consideration when large areas are acquired? Is the land near the road valued at higher rates? If so, has any formula been devised in this regard?

LAND DEVELOPMENT & DISPOSAL POLICY

14. (a) Is the land which has been acquired for urban development purposes but which is not immediately needed, generally given back on temporary lease to the owner? If so, on what terms and conditions is this done?

(b) Have any difficulties been faced in getting such land back when required? If so, how did you tackle those difficulties?

15. Where Government acquire land for urban development purposes how long after such acquisition do they actually dispose off or put the land to the use for which it is acquired?

16. Do the State Government or other public authorities follow any systematic policy in the disposal of land after its acquisition where land is acquired for the purpose of housing or other developments?

17. (a) In the disposal of the acquired land do the Government or other public authorities generally follow a policy of allotting:

- (i) land without development,
- (ii) land after development,
- (iii) land on free-hold basis, and
- (iv) land on lease-hold basis.

(b) In case land is allotted on lease-hold basis, please enclose a sample copy of the deed.

(c) Do you charge relatively higher price:

- (i) for smaller plots or bigger-plots;
- (ii) for residential or commercial or industrial use; and
- (iii) for high or medium or low income group housing plots.

(d) If you allot land both on lease-hold and free-hold basis, what is the difference in the price of land disposed off on free-hold and lease-hold basis?

(e) which of the two bases in the allotment of land, viz., free-hold and lease-hold, do you prefer and why?

18. While allotting or otherwise disposing of land do you or would you advocate any distinction between residential, industrial or commercial uses? If so, please state the nature of distinction that you usually make or will like to recommend.

19. Will you leave it to the private land-holder or any other private agency to develop and sell the land provided the standard of development and use of land are duly ensured? If so, to which agencies, and/or subject to what conditions would you like to do so?

20. Do you give preference in allotment of the acquired land to certain groups or classes of people, e.g., to persons whose lands have been acquired, people in the low income groups, slum dwellers, squatters, co-operative societies, trades and industries relocated in consequence of the execution of a Master Plan etc.

SPECULATION IN LAND & PREVENTIVE MEASURES

21. (a) It is felt that in big or growing cities and towns mere speculation in land pushes up the land prices. Has such speculative activity come to your notice? If so, please mention the extent of such speculation and consequent price rise.

(b) What measures, if any, have been taken or you would suggest to prevent such speculation?

22. (a) Do you think it will help curb speculation in land if obtaining of prior permission for transfer of land in areas around the built-up town/city is made statutorily compulsory?

- (b) Do you consider it desirable that the public authority should in such cases have a right of pre-emption at the price indicated by the owner in his application for sanction of transfer ?
- (c) Is there any limit beyond which no person can acquire urban land in your State ? Do you think such a limit helps keeping prices down and helps or retards the development of towns ?
- 23. (a) Do you think it will discourage speculative hoarding of urban land if :
 - (i) a time limit is prescribed within which the vacant plots should be built upon;
 - (ii) a penal tax is levied for keeping land idle beyond a prescribed time limit ?
- (b) Do you envisage any practical difficulties in enforcing (i) or (ii) above.
- 24. (a) It is alleged that speculative activity increases in those places for which master plans are in the process of preparation. To what extent is this allegation correct in your view ?
- (b) If this allegation has any substance, what has been the extent of price increase since plans began to be made.
- (c) What measures would you suggest to prevent such speculative activity ?

UNEARNED INCREASES AND MEASURES TO MOP THEM UP

- 25. (a) Do you consider it desirable that unearned increases in the urban land and property values be mopped up ?
- (b) If so, please state the manner in which or the measures through which unearned increases can be mopped up in respect of :
 - (i) Lands disposed off on free-hold basis.
 - (ii) Lands disposed off on lease-hold basis.
 - (iii) Lands and property in areas not acquired by Government.
- 26. (a) What is your opinion about the efficacy or effectiveness of the following measures for mopping up the unearned increases :
 - (i) Enhanced stamp duty on transfer of property.
 - (ii) Development levy.
 - (iii) Any fee for change of use (Conversion fee) and around declared urban areas.
 - (iv) An annual tax on unearned increments.
- (b) If you suggest any of the above levies, what rate or rates would you recommend for the same.
- (c) Will the duties or levies mentioned above help or retard the process of urban development ? Please give reasons for the same.
- 27. (a) Do you have any experience of levying and collecting :
 - (i) development charge;* and
 - (ii) betterment levy.**
- (b) If so, please describe
 - (i) the basis of assessment
 - (ii) the agency which makes the assessment
 - (iii) the rates of these levies
 - (iv) the agency that collects these levies
 - (v) the problems, if any, faced in administering the levy or the charge.

* Development charge is a charge levied on development which may be defined as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any building or land.

** Betterment levy is a tax levied on the increase in the existing value of neighbouring land and/or building brought about by a particular improvement undertaken by a public authority.

- (c) As between the betterment levy and the development charge which do you prefer and why ?
- (d) In case you prefer the development charge over the betterment levy, please state the nature of development for which this charge should be levied and the relationship that the charge should bear to the cost of development.

BROADER ISSUES IN URBAN LAND POLICY

28. Do you subscribe to the view that planned development of urban areas cannot be successfully undertaken and speculation in land cannot be prevented unless Government has control over land ? If so, to what extent do you consider it necessary or desirable for the Government to have control over land within and around the urban areas ?

29. Do you favour the idea of large scale acquisition of land by Government ? Please give the reasons for the view you hold.

30. (a) Do you consider it necessary or not and feasible or not to acquire lands and buildings in the thickly developed urban areas in the interest of their planned development ? Please state in brief the reasons for the view you hold.

(b) Do you have any experience of acquiring land in the thickly developed urban areas ? If so

(i) What type of difficulties had you to encounter in such cases ?

(ii) How did you relocate the population, trade, or industries displaced from the thickly developed areas ?

31. Do you have any measure in your view through which planned development of urban areas could be ensured without reasons to direct control of land by the Government ? If so, please state those measures and the mechanics of their operation.

32. Do you have any policy or programme for the rehabilitation of people who are dispossessed as a result of public acquisition of land for urban development purposes ? If so, please describe your policy or programme and the extent of its success or the limitations thereof. What measures for rehabilitation of dispossessed persons do you consider necessary ?

33. Would you consider it desirable that the agency responsible for development and acquisition of land should be kept separate from municipal bodies or corporations ?

ANNEXURE I

STATE LAND ACQUISITION AMENDING ACTS

<i>Assam :</i>	The Assam Land Acquisition (Dibrugarh) Act, 1953 (Assam Act XXIII of 1953).
<i>Bengal :</i>	The Land Acquisition (Bengal Amendment) Act, 1934 (Bengal Act II of 1934).
<i>Bihar :</i>	The Land Acquisition (Bihar Amendment) Act, 1951 (Bihar Act XVII of 1951). The Land Acquisition (Bihar Amendment) Act, 1956 (Bihar Act XXI of 1956). The Land Acquisition (Bihar Second Amendment) Act, 1956 (Bihar Act XXXIV of 1956).
<i>Bombay :</i>	The Land Acquisition (Bombay Amendment) Act, 1938 (XVIII of 1938). The Land Acquisition (Bombay Amendment) Act, 1945 (XX of 1945). The Land Acquisition (Bombay Amendment) Act, 1948 (IV of 1948). The Land Acquisition (Bombay Amendment) Act, 1950 (XXVII of 1950). The Land Acquisition (Bombay Amendment) Act, 1953 (XXXV of 1953).
<i>Madhya Pradesh</i> <i>(Central Provinces) :</i>	C.P. and Berar Land Acquisition (Amendment) Act, 1939 (XXVII of 1939). C.P. and Berar Land Acquisition (Amendment) Act, 1949 (VII of 1949). C.P. and Berar Land Acquisition (Second Amendment) Act, 1949 (XXVIII of 1949).
<i>Madras :</i>	The Land Acquisition (Madras Amendment) Act, 1949 (XXI of 1948). The Land Acquisition (Madras Amendment) Act, 1953 (XII of 1952).
<i>Punjab :</i>	Land Acquisition (East Punjab Amendment) Act, 1948 (XV of 1948).
<i>Uttar Pradesh</i> <i>(United Provinces) :</i>	The Land Acquisition (U.P. Amendment) Act, 1954 (XXII of 1954).
<i>Pepsu :</i>	The Pepsu Land Acquisition Act, 1953, (V of 1953).
<i>Rajasthan :</i>	The Rajasthan Land Acquisition Act, 1953 (XXIV of 1953).
<i>Saurashtra :</i>	The Land Requisition Act, 1948 (Adaptation and Application) Ordinance, 1948 (XXI of 1948) as amendment by Saurashtra Act XLIII of 1953. Re-Settlement of Displaced Persons (Land Acquisition) Act, 1948 (IX of 1948) Central Act Amended by A.L.O. 1950. (Applies to Delhi and Ajmer)
<i>Cochin :</i>	The Land Acquisition Act 1070 (II of 1070) as amended by Acts IV of 1074, I of 1109, I of III, XXX of 1112, and proclamation V of 1112.
<i>Hyderabad :</i>	The Hyderabad Land Acquisition Act, 1309 F (IX of 1309 Fasli) (1899). The Hyderabad Land Acquisition (Amendment) Regulation 1358 F (LIX of 1358) Fasli (1948).
<i>Mysore :</i>	The Mysore Land Acquisition Act, 1894 (VII of 1894) as amended by Acts XI of 1916, I of 1927, VII of 1932, III of 1941.
<i>Travancore :</i>	The Land Acquisition Act, 1089 (XI of 1089), as amended by Acts V of 1096, I of 1099.

ANNEXURE II
PART I—LIST OF ACTS

Section I—Central Acts

1. The Indian Telegraphs Act, 1885 (XIII of 1885).
2. The Indian Tramways Act, 1886 (XI of 1886).
3. The Indian Railways Act, 1890 (IX of 1890).
4. The Land Acquisition Act, 1894.
5. The Indian Works of Defence Act, 1903 (VII of 1903).
6. The Indian Electricity Act, 1910 (IX of 1910).
7. The Indian Forest Act, 1927 (XVI of 1927).
8. The Delhi Restriction of Uses of Land Act, 1941 (XI of 1941).
9. The Damodar Valley Corporation Act, 1948 (XIV of 1948).
10. The Delhi Road Transport Authority Act, 1950 (XIII of 1950).
11. The Road Transportation Act 1950, (LXIV of 1950).
12. The Slum Areas (Improvement and Clearance) Act, 1956 (XCVI of 1956).
13. The Territorial Councils Act, 1956 (CII of 1956).
14. The Coal Bearing Areas (Acquisition and Development) Act, 1957 (XX of 1957), amended by Act LI of 1957.
15. The Delhi Development Act, 1957 (LXI of 1957).
16. The Delhi Municipal Corporation Act, 1957 (LXVI of 1957).

Section II—State Acts

1. The Calcutta Improvement Act, 1911 (5 of 1911).
2. The Bengal Municipal Act, 1932 (15 of 1932).
3. The Calcutta Municipal Act, 1951 (33 of 1951).
4. The Bihar and Orissa Municipal Act, 1922 (7 of 1922).
5. The Darbhanga Improvement Act, 1934 (4 of 1934).
6. The Bihar Restriction of Uses of Land Act, 1948 (33 of 1948).
7. The Bihar Town Planning and Improvement Trust Act, 1951 (35 of 1951).
8. The Bombay Provincial Municipal Corporations Act, 1949 (59 of 1949).
9. The C.P. and Berar Municipalities Act, 1922 (2 of 1922).
10. The Nagpur Improvement Trust Act, 1936 (36 of 1936).
11. The Madras City Municipal Act, 1919 (4 of 1919).
12. The Madras District Municipalities Act, 1920 (5 of 1920).
13. The Madras Town Planning Act, 1920 (7 of 1920).
14. The Madras District Local Boards Act, 1920 (14 of 1920).
15. The Madras City Improvement Trust Act, 1950 (37 of 1950).
16. The Madras Lignite (Acquisition of Land) Act, 1953 (11 of 1953).
17. The Orissa Municipal Act, 1950 (23 of 1950).
18. The Punjab Town Improvement Act, 1922 (4 of 1922).
19. The U.P. Town Improvement Act, 1919 (8 of 1919).
20. The Kanpur Urban Area (Development) Act, 1945 (6 of 1945).
21. The U.P. Roadside Land Control Act, 1945 (10 of 1945).
22. The Hyderabad Municipal Corporation Act, 1950 (36 of 1950).
23. The Hyderabad City Improvement Act, 1951 (35 of 1951).
24. The City of Mysore Improvement Act, 1903 (3 of 1903).
25. The City of Bangalore Improvement Act, 1945 (5 of 1945).

APPENDIX 2

VIEWS OF LOCAL BODIES AND DEVELOPMENT AGENCIES

Described below are the salient points of the questionnaire issued by the Committee and an analysis of the replies given by public authorities :

The first section of the questionnaire was devoted to the law relating to acquisition and control of land. The six questions in this section were directed to elicit information on the existence of special Acts governing acquisition or control of land and the extent of their enforcement and success; the desirability of following a policy of discriminating rates of compensation as between the rural and urban lands, lands acquired for different public purposes and in large scale acquisition as distinct from acquisition of small chunks of land. With a view to achieving equitability in the assessments and expedition in the acquisition proceedings reactions of the public authorities were sought on the suggestions to appoint special land acquisition officers, special appellate courts, a separate valuation organisation for making assessments and a Valuation Tribunal to hear appeals against the assessments.

Replies to these questions indicate that the public authorities generally make use of the Land Acquisition Act of 1894. A few special acts do, however, exist. By and large these special Acts relate to Town Planning, municipalities, Improvement Trusts and slum clearance. Gujarat Industrial Development Corporation Act 1962 is another recent piece of legislation brought to our notice. Even where special acts exist there use is not frequently made. Amritsar perhaps is one of the exceptional cases where over 1 lakh square yards of land are reported to have been acquired under the Punjab Damaged Areas Development Act. It is important, however, to note that the public authorities in whose case special Acts play an important part are those which are primarily and intimately involved in land acquisition, development and disposal work, e.g., the Improvement Trusts and the Housing Boards. This fact is indicative of the inadequacy of the Land Acquisition Act where large scale acquisition and development of land is necessary.

Among the Acts which aim at regulating and controlling the use of land, the most popular are the Town Planning Acts and to lesser extent the Municipal Acts and slum clearance Acts. There are a few other exceptions like the Bihar Restriction of Use of Land Act, 1948. Punjab Periphery Control Act of 1953, Punjab Control of Ribbon Development Act and PEPSU Town and suburban Areas Development Act. Generally speaking, compensation is not payable when land is controlled, regulated or frozen under such Acts. It is only in the event of refusal of permission to develop or build that the public authority could be called upon to acquire the property itself and pay compensation in the usual manner. From the replies it is difficult to gauge the measure of success in the enforcement of such regulatory or controlling Acts. Nevertheless, we are left with the feeling that, by and large, sufficient experience of enforcing such special acts does not yet exist.

As regards the legal provisions under which execution of underground or overground works such as laying of water mains, sewer lines and electric wires etc., is permissible without resort to acquisition, the answers appear to suggest that such provisions exist under the various municipal Acts. Nevertheless, a majority of public authorities do consider such provisions essential or desirable.

Answers to questions whether a policy of differential rates of compensation should be followed have been overwhelmingly in the affirmative. While most of the public authorities consider such a policy desirable only a few have elaborated the point. Those who have done so consider lower rates of compensation desirable in large-scale acquisition or in cases where bigger plots or slum areas are involved. The Assam Government has stated that different rates cannot be fixed having regard to the purposes as this is against fundamental principle of justice. On this ground the Assam Acquisition of Land for Embankment and Flood Control Act, 1951 has been declared *ultra-vires* by the High Court.

The second section of the questionnaire related to the problems of compensation and valuation in land acquisition. Seven questions contained in this section desired to know the principle and

the manner in which compensation is determined under the provisions of the special Acts and whether compensation was awarded on the basis of the use to which the land was put at the time of preliminary notification. Opinion was sought on the best basis of compensation from among the four bases; *viz.*, (a) market value, (b) use value, (c) ante-dated market value and (d) land revenue/rental value/income from land.

A question was asked on the necessity and justification of paying solatium. Other questions in this section related to problems of assessment and compensation in the transfer of Nazul land from the Government to local authorities and difficulties, if any, in procuring lands belonging to Central Government departments for urban development purposes. A specific question was whether the law courts had at some later date revised upward the amount of compensation initially paid. How much upward revision affected the development programmes and how the situation was tackled?

Analysis of replies to these questions reveal that in the Acts governing the Improvement Trusts and the Municipalities the basis of compensation is not the prevailing market value. In most cases it is the use to which the land was put either on the date of preliminary notification or over a certain number of years (usually 3 to 5) preceding the date of notification. In quite a few cases, as for example in the case of Mysore Improvement Trust, the basis is 20 years' rental value plus 15 per cent statutory allowance. Under the Andhra Pradesh Housing Board Act the formula is 20 times the net average annual income actually derived during the 5 years preceding the date of notification. The Government of Assam have stated that in the acquisition of tea-garden lands under the Assam Tea Garden Land (Requisition & Acquisition) Act, 1948 the compensation is determined at 20 years' land revenue of similar revenue-yielding lands in the neighbourhood. Income basis has also been adopted in certain Slum Clearance Acts.

As regards the best basis of assessment the reactions were as follows :

Market Value	22 Public authorities.
Use Value	5 Public authorities.
Land Revenue/Rental	4 Public authorities.
Value/Income from land.	

It can thus be inferred that a majority of public authorities are in favour of market value on the date of preliminary notification. In the matter of solatium, 13 out of 41 public authorities have expressed themselves against it; 13 consider solatium desirable while 10 have refrained from answering the question.

In procuring land belonging to the Central Government departments for urban development purposes, 12 public authorities out of 30 had no occasion to have any experience in the matter. Seven Public authorities have, however stated that difficulties were encountered. The Government of Gujarat have stated that the railway administration did not conform to development proposals and denied the authority of State legislation in the matter. The Madras State Housing Board has expressed that difficulty is faced in acquiring military and railway lands. Jullundur and Amritsar Improvement Trusts experienced difficulty in procuring evacuee property falling in the schemes formulated by the Trusts. Nagpur Improvement Trust has cited difficulties about railway lands not being available for purposes like under-passes and over bridges. Madras Municipal Corporation has just mentioned that land belonging to the Defence Ministry is difficult to get. Vijayawada and Surat Municipalities have stated that difficulties were experienced but have not cited any instances thereof.

On the question of Nazul lands, a large majority of public authorities do not seem to have such cases in their jurisdiction. There are no Nazul lands in the cantonment areas and in Kerala and Assam States. Only 11 Public authorities have returned some replies to the question. The Government of Gujarat have stated that in case of transfer of land to local bodies for non profitable uses the valuation is normally nominal. Otherwise market value is charged. Himachal Pradesh Government have mentioned that ordinarily the Nazul lands are transferred to local bodies free of cost. Madras State Housing Board have also given the same facts. Amritsar

Improvement Trust has stated that compensation of Nazul land is determined on the basis of 5 yearly statement of transactions before the material date. The compensation to lessees is determined on the basis of loss sustained by them for the period of the lease to run. In fact the Governments of Gujarat and Punjab and Vijayawada Municipality have stated that the basis of compensation is market value and proportionate lease amount in the case of the third parties. Nagpur Improvement Trust has given some interesting information. In Nagpur the State Government are reported to have classified Nazul land into three categories, namely, (1) vested in the local authorities for public purposes with ownership retained by the Government and Nazul contributing towards the cost of development of such land; (2) Nazul lands taken over by the Trust and compensation being determined according to the provisions of the Nagpur Improvement Trust Act; and (3) Small and irregular pieces of land, *e.g.*, land under *nallas*, tracts, etc., termed as unusable, and transferred to the local body free of cost. The Trust has observed that in the interest of co-ordinated urban development Nazul land should be handed over to it. Jullundur Improvement Trust has observed that Nazul land should be given free of cost. Varanasi Municipal Corporation has stated that the Nazul lands are transferred to the Corporation free of cost.

The problem of the law courts having revised upwards the amount of compensation has been the experience of many a public authority. In some (*e.g.* Jullundur Improvement Trust and Calicut Corporation) such cases were quite a few while in others relatively less. Wherever such upward revision took place it affected adversely both the development programme and the finances of the concerned public authorities. To meet such situations either the development programmes were slowed down or the burden of increased compensation was shifted on to the beneficiaries through increased prices. In exceptional cases the loss was met by the Government. No remedy of the problem has, however, been suggested.

The third section in the questionnaire related to land development and disposal policy. The intention here was to find out how long after acquisition the acquired land was developed and disposed off. If not, was the acquired land temporarily leased out to the owners and if any difficulties were experienced in getting them back when needed; whether any systematic policy in the disposal of land was being followed and whether lands were allotted with or without development and on free-hold or lease-hold basis. A specific question was whether any price discrimination was practised as between smaller and bigger plots, residential and non-residential uses and high and low income groups. It was desired to find out whether the task of developing land should be left in the hands of private land holders or any other private agencies. Yet another question was if any preference in the allotment of acquired land was given to certain groups or classes of people.

We find that a majority of public authorities do not seem to have any experience of having leased out the acquired lands. It might be so because they had resorted to acquisition of land to meet their own requirements. Most of the replies purport to suggest that the acquired lands are not kept idle but disposed off at the earliest possible. The Government of Gujarat do not give such lands on lease but allow them only for grazing purposes during the monsoons on licence basis. A few authorities who happen to lease the acquired land back to the owners do so either on annual licence or under short-period lease agreements. Such public authorities did face difficulties in getting the lands back at the proper time. The remedy that two public authorities, namely, the Improvement Trusts of Nagpur and Mysore, have suggested is to exempt the public authorities from the protective effects of the tenancy Acts. Vijayawada Municipality has observed that the practice of leasing out the acquired land should not be followed because the sites cannot be resumed when needed, and the use of force in evicting the lessees leads to litigation.

In the disposal of land almost all public authorities claim to follow the practice of disposal after proper development. None of them excepting the Governments of Gujarat and Pondicherry favours the idea of leaving the development of land in the hands of private individuals or agencies. As Nagpur Improvement Trust has observed, the private land-holders are more anxious to reap profits rather than to develop land and it is difficult to ensure the standard of development. Most of the public authorities are, however, prepared to make an exception in the case of registered co-operative societies subject to proper safeguards about standards in development.

As regards the system of free-hold versus lease-hold, the most prevalent practice is the lease-hold. In a few cases (Gaya, Amritsar and Jullundur Improvement Trusts) land is given on free-hold basis. Even here, educational and charitable institutions are allotted lands on lease-hold basis. Madras State Housing Board has expressed preference for free-hold basis for low and middle-income group housing schemes, as the Board considers lease-hold as "unpopular". Madurai Municipal Council also prefers free-hold as land disposal in this case is quick. A very large majority of public authorities has, however, expressed preference for the lease-hold basis. The reason given for this preference is that this basis enables them to have recurring income over the years. The Kerala Government have given a special reason in support of the lease-hold basis. According to the State Government it is difficult for individuals to clear all liabilities in one instalment and so lease-hold is preferable. They do not seem to be aware of the other advantages of the lease-hold basis, e.g., the retention of ownership of land in the public sector and the manoeuvrability of lease-deed for the enforcement of planning and other controls.

In the matter of price discrimination and price policy the replies give the impression that price discrimination in a rudimentary form is made by a large number of public authorities. Thus, for example, a little higher price is generally charged when land is allotted for industrial or commercial uses. In the allotment of smaller plots for low income group housing a no-profit no-loss basis is being generally followed. A few interesting deviations from this norm are Jullundur Improvement Trust and Surat Municipality which seem to be charging relatively higher price for the small plots and the Amritsar Improvement Trust which charges the lowest prices for industrial plots. Where allotment of land is for the benefit of the low income groups allotment is frequently done by draw of lots. In other cases disposal of land through public auction seems to be practice generally in vogue. At the same time it is quite evident that even where some awareness about the need and desirability to pursue a discriminating price policy exists the idea has hardly been developed into a well thought-out policy.

As to the question whether any preference in allotment is accorded to any group or class of people, a good many public authorities do not have any relevant answer to offer. A few who have replied this question inform that preference is given to persons displaced as a result of acquisition; low income groups slum dwellers and, in a few cases, to co-operative societies.

The fourth section of the questionnaire was devoted to the problem of speculation in land and preventive measures thereof. The questions in this section wanted to ascertain the extent of speculative activity in the urban areas and the anti-speculation measures adopted so far. Opinion was sought on some anti-speculation measures like obtaining of proper permission for transfer or land particularly in areas around the built-up town or city; right of pre-emption exercisable by public authorities where the seller under quotes the sale price of his property; and a ceiling on the amount of urban land a person can possess. It was also asked whether a time limit should be prescribed within which vacant plots should be built upon and whether a penal tax should be levied for keeping land idle beyond a certain time limit. Quite related was the question whether speculative activity increased in those places for which master plans were in the process of preparation and, if so, the extent of such price-rise and measures to prevent the same.

A majority of answers confirm that speculation in land in urban areas is wide-spread. No data on the extent of price rise due to speculation has been provided in the answers. Government of Punjab, Nagpur Improvement Trust and the municipalities of Vijayawada and Dum Dum are the only exceptions. The Government of Punjab have stated that land prices in industrial and growing towns have enhanced to three or four times of what they used to be. Nagpur Improvement Trust has informed that agricultural lands on the outskirts of the city have appreciated during the last six years from Rs. 1,000 to Rs. 5,000 per acre. In Vijayawada the increase is reported to have been from Re. 1 to Rs. 8 per square yard during the last 10 years. Dum Dum Municipality has observed that the rise has been 'abnormal'. Since master plans are not in the process of preparation in the case of most of the respondents, the answers are unable to either confirm or deny the existence of speculative activity on account of the master plan. Some public authorities have, however, agreed that there is some truth in this allegation. The Government of Gujarat have given the price variation from two to five times and even more.

As for measures to prevent speculation in land most of the public authorities have appreciated the need for such measures and have readily agreed with the suggestions made in the questionnaire, namely, need for obtaining prior permission for transfer of land in areas around built-up cities, right of pre-emption by public authorities, stipulation of a limit beyond which no individual can require urban land, provision of a time limit within which vacant plots should be built up and the imposition of a penal tax for keeping the lands idle beyond a specified time limit. The Government of Gujarat have observed that there should be a limit on holdings in urban areas and lands once purchased should not be allowed to be resold unless the purchaser constructs building on at least half of the permissible area of each sub-division. All contracts of sale of land should be made registrable. The Madras State Housing Board has suggested that extensive urban-land-development be made to meet the full demand of such land. Very few public authorities have pointed out the practical difficulties in enforcing such anti-speculation measures. Some of them think it will be difficult to enforce these measures because such measures will need legislative backing and may perhaps not be consistent with the provisions of the Constitution. A number of local bodies have pointed out that rigorous enforcement of a time limit or a penal tax will be difficult because of the scarcity of building materials. The Governments of Kerala and Assam, Gaya Improvement Trust and Nagarcil Municipality are sceptical that such measures may cause hardship to the poor who may be keeping land vacant only for want of capital.

The fifth part of the questionnaire referred to the problem of unearned increase in land and property values and measures to mop them up. Questions in this part desired to elicit opinion on most suitable measures through which unearned increases could be mopped up. The questionnaire itself gave certain suggestions like enhanced stamp duty on transfer of property; development charge; betterment levy; conversion fee and an annual tax on unearned increments and desired to assess the reactions to these suggestions. One of the questions was which of the two specific methods of mopping up unearned increments, namely, the development charge and the betterment levy was preferable and why.

A majority of public authorities consider it very desirable to mop up unearned increments in land and property values. The Assam Government have, however, pleaded that the mopping up of unearned increases should be confined to those cases where lands were acquired for speculative purposes and disposed off accordingly. On scrutinising the answers it becomes quite clear that none of the public authorities has any experience of levying the 'development charge'. In fact the very concept of the development charge has not been understood properly and has been confused with a concept of development cost. Only a few public authorities have some experience of collecting the betterment levy. They have reported that there have been difficulties in doing so. No definite view-point emerges from the replies in regard to the efficacy or effectiveness of any of the measures suggested in the questionnaire. The only significant point that does emerge is that a surcharge on stamp duty is already in force in a number of places but even where it exists it does not help. Mysore Improvement Trust has in this context commented that a higher stamp duty will be evaded by disclosing lesser consideration value.

The last section of the questionnaire pertained to the broader issues in urban land policy, e.g., the need for and extent of governmental control over urban land; desirability of large scale public acquisition of land; the necessity or feasibility of acquiring lands and buildings in the thickly developed urban areas in the interest of their planned development; whether public authorities have any policy or programme for the rehabilitation of people dispossessed as a result of public acquisition of land for urban development purposes and whether the agency responsible for development and acquisition of land should be kept separate from municipal bodies.

A very large majority of public authorities seems to agree with the view that planned development of urban areas cannot be successfully undertaken and speculation in land cannot be prevented unless Government have control over land. Beyond this general agreement no concrete suggestions have been made as regards the nature and extent of such control within and around the urban areas. The substance of some of the replies on this important point may, however, be found interesting. Kerala Government consider it desirable that Government take over the

possession of as much urban land as feasible. The Punjab Government feel that Government should have full control over land within and around urban areas, say upto 8 Km. of the municipal limits. Assam Government favours the control to the full extent. Ranchi Improvement Trust has observed that no development should be allowed without Government approval. Dum Dum Municipality has recommended substantial control over land prices by fixing price-ceilings in different areas. A negative note has been struck by Madras Municipal Corporation by observing: more the controls more the opposition.

A large majority of the public authorities seems to favour the idea of large scale acquisition of land by Government. Madras Housing Board had already taken resort to large scale acquisition, viz., about 4,000 acres in Madras City and about 1,000 acres in the towns of Madurai, Coimbatore and Trichur. The Punjab Government are in favour of large scale acquisition and development of land by Government as a measure to check speculation. The Assam Government are in its favour on the grounds that it prevents speculation, leads to social justice and facilitates planned and orderly development. On the other hand, the Governments of Himachal Pradesh and Tripura are afraid of the problem of rehabilitation caused by large scale acquisition. Ranchi Improvement Trust thinks that at least 30 per cent of the area covered by a master plan should be acquired. Those public authorities who have given the reason for their views consider public acquisition of land desirable because it ensures proper development or helps to acquire land at cheaper rates. Madras Municipal Corporation considers it desirable in the context of national objective of socialist pattern of society.

Few public authorities have any experience of having acquired lands and properties in the thickly developed areas. A majority of them does not, however, think it desirable to do so on a large scale. The reasons advanced for this view are that such schemes would be too costly, will give rise to violent opposition from the people and will dislocate day-to-day life and services of the central areas. Two or three local bodies like Dum Dum Municipality and Mysore Improvement Trust consider it desirable to undertake planned development of built-up areas through public acquisition. Whenever this is done provision of alternative site for rehousing should be made simultaneously. The Gujarat Government think it essential in public health interest but do not consider it feasible due to the present shortage of housing accommodation. Kerala Government also consider it desirable but infeasible on cost-considerations. Madras Housing Board does not consider it desirable. Tripura Government are of the view that acquisition of land for widening roads and construction of underground drains is necessary in the thickly developed areas. No relevant replies have been received on the question whether planned urban development could be ensured through measures other than direct government control on land. The Government of Gujarat have stated that under the Bombay Town Planning Act 1954, the local authorities can enforce negative or restrictive planning. There is a method by which all the lands falling in any particular scheme are pooled together and redistributed after making deduction of lands required for public purposes of all kinds. This method of land pooling is known as 'Lax Adiokes'. This method has worked out very well in Ahmedabad. The Punjab Government have mentioned that there is a provision in the Punjab Municipal Act (Section 192) under which the Municipal Committees can declare any vacant land within their limits as an 'unbuilt area' and prevent construction thereon except in accordance with a scheme to be formulated by it in which an individual owner can be compelled to have 25 per cent of his plot area for roads etc. But the enforcement of this provision has not been as effective as it should have been because of the loopholes in the statutory provisions allowing individuals to make sub-divisions of such land and thus to reduce the total of 25 per cent available for roads; and the incapacity of municipal committees to provide roads and drainage on the area left out by the owners for indefinitely long periods due to general scarcity of finances. Steps are being taken to plug the loopholes and tighten this provision. Assam Government try to control and regulate the development and land use in the Master Plan areas under their Town Planning Act.

In the matter of rehabilitating persons displaced in consequence of public acquisition, most of the public authorities do not seem to be having any policy of rehabilitation as such. Most of them do, however, try to give some preference in the allotment of land to displaced persons and

some times concessional prices are charged from them. The Kerala Government provide alternative accommodation for displaced families though they do not have a definite programme for it. The Punjab Government have observed that the Improvement Trusts have to make necessary arrangements for the rehabilitation of the displaced under section 26 and 27 of the Punjab Town Improvement Act, 1922. In the allotment of plots preference is given to persons displaced by the execution of schemes under the Land Disposal Rules of Individual Trusts. None of the public authorities seems to have given any attention to the problem of economic rehabilitation or alternative employment for the people uprooted in consequence of public acquisition from their present residential or agricultural areas.

A very large majority of the public authorities consider it desirable that the agency responsible for development and acquisition of land should be kept separate from municipal bodies. The Governments of Assam and Gujarat feel there is necessity of a separate agency to be responsible for development and acquisition of land. This function in their opinion, cannot successfully be entrusted "to a body which has from time to time contest elections". Government of Kerala are in favour of constituting a Town Improvement Trust with which the local bodies along which the Town Planning and Revenue Departments may be associated. The Government of Himachal Pradesh favour the acquisition of land by a separate agency but the work of development to be entrusted to the local bodies. The Madras State Housing Board has argued that the elected bodies are not suitable due to various pressures and the State Government or bodies like the State Housing Boards are suitable to tackle these problems. Ranchi Improvement Trust, Andhra Pradesh Housing Board and Dum Dum and Madurai Municipalities do not, however, think it desirable to keep the two agencies separate. Ranchi Improvement Trust would like to have one organisation for both the purposes because there is a serious lack of co-ordination if the number of organisations is more. The other two public authorities feel that municipalities should be entrusted the additional functions of land acquisition, development and disposal.



APPENDIX 3

A NOTE ON GHAZIABAD LAND POLICY

Government have, for some time past, been considering the question of land policy to be followed at Ghaziabad. It was originally contemplated that the Improvement Trust set up at Ghaziabad will undertake all developmental work, prepare the improvement and development schemes and acquire land for these schemes and execute them. With this end in view, about 52 lakhs of rupees as loan were advanced to the Improvement Trust to enable it to carry on its activities of development. When, however, the Improvement Trust framed its development schemes and proceeded to acquire land it was faced with numberless representations and writ petitions. A large number of applications have been received from various individuals, co-operative societies, colonisers and others praying that the Government or the Improvement Trust should not enter upon any extensive acquisition of land and may not deprive the private owners of their legitimate gains which will accrue to them from the sale of their valuable properties in this area. It would *prima facie* seem that their request is very genuine and when they are ready to abide by the land use fixed in the Master Plan and to fall in line with the development plan envisaged for this area, there is no reason why they should be forcibly ousted from their land, and why the benefits of the soaring high price of the land in that area should go to the Improvement Trust, Ghaziabad.

2. Government have also been receiving numerous counter-complaints and suggestions that private owners who have been vehemently agitating against the acquisition of land have no financial and technical resources to develop their plots and the colonizers are just speculators and profiteers whose sole aim is to make maximum profit and who are least interested in developing this area. It is said that these colonizers and middle-men will take advantage of the anxiety of the purchasers to secure a plot and will dispose of their land at maximum rates and then disappear from the scene leaving it to the Municipal Board and to the Improvement Trust to complete the unfinished works and the hope of getting this area developed through these colonizers will remain only a fond hope. Further, there will be the problem of co-ordination and of ensuring uniform internal and external development of the area. Some persons may be keen to develop their land according to the plans and specifications of the Improvement Trust while others may not be able to do it at all.

3. Taking all the factors into consideration, Government have come to the conclusion that the experiment of entrusting the development of Ghaziabad entirely to private agencies will not prove successful. It has accordingly been decided that the land falling within the limits of the Ghaziabad Municipality may be acquired in the first instance under the provisions of the Land Acquisition Act, 1894, and the Improvement Trust, Ghaziabad may arrange for the external development of the entire area and also the internal development in certain category of cases detailed below and then lease out the plotted area to the persons from whom the land was acquired by charging premium which shall be equal to the compensation payable for the acquisition plus the cost of development externally or externally and internally both. The lessees may be given the right to sub-lease the plots and thereby earn on their land.

4. The land-owners have broadly been classified into three categories :—

- (1) those, who hold an area of less than two acres,
- (2) those, who have an area of more than two acres, but less than 20 acres; and
- (3) those, who have an area of 20 acres or more at one place.

5. The land of the persons falling in category No. (1) shall be acquired by paying them cash-compensation according to the provisions of the Land Acquisition Act, 1894, and developed externally and internally entirely by the Improvement Trust, Ghaziabad. The ex-land-owners will, however, be given preference in the allotment of developed plots, if they request for such allotment for construction of houses for themselves.

6. Those in category No. 2 may be given an option either to accept cash compensation for their land under the Land Acquisition Act or to get back 40% of their land as developed plotted area after paying the cost of external and internal development. In the latter case, the premium will be equal to the compensation payable for the land.

7. Those in category (3) may either accept cash compensation for their land under the Land Acquisition Act and thereafter keep away or may like to get the net plotted area in the manner described for category No. (2). The landowners in this category will have the additional option of carrying out the internal development themselves, but strictly according to the specifications of the Improvement Trust. In that case they will have to pay charges for external development only to the Improvement Trust. They can also get the internal development done through the Improvement Trust as those in category No. (2).

8. There may be persons having small plots and they may be allowed to combine to form a compact plot of land of more than 20 acres. They may be given the same facility as those available to persons in category No. (3).

9. The maximum period for which lease can be given to the land-holders will be 90 years with suitable restrictions on the use, sub-division, and sub-leasing of land etc. The lessees will also be required to pay suitable ground rent for the area leased or sub-leased to or by them.

10. If any land-holder falling in category No. (2) or (3) finds it difficult to pay the cost of development all at once, he may be allowed to pay it in instalments or to pay it with interest at the time of sub-letting the plot. The big land-holders falling in category No. (3) can be allowed to enter into agreements to lease out plots with prospective purchasers and charge 25% of the expected price in the first instance and the balance as and when improvements have been made. The above facility will be for such big land-owners as are not in a financial position to develop their land.

11. It is estimated that about 40% of the gross land will be available for plotting after development. This percentage may vary in some cases but a uniform rate of 40% of the gross area shall be leased out to the ex-land owners. The remaining 60% will be utilised for laying out of roads, sewer lines, parks, open spaces, public and community centres, schools, hospitals etc.

12. Cost of external and internal development is likely to be about Rs. 3 per square yard of gross area or Rs. 7.50 per square yard in the net plotted area. The exact amount can be ascertained later. This amount may be charged in cash in one or more instalments or may be recovered after the development of the land at the time of its transfer in the shape of plots to the sub-lessees by the lessees. A procedure to ensure recovery of cost with interest will however, have to be worked out.

13. There can be certain area of land in respect of which there may be dispute of title and such land shall have to be acquired outright to avoid future litigation. There may also be certain areas where no housing colonies will be developed or where according to the Master Plan there will be markets or other commercial centres. In such cases, the Improvement Trust will allot residential plots of land to the land-holders as near to their original land as possible. The areas reserved for markets and commercial centres in the Master Plan shall be developed exclusively by the Improvement Trust, Ghaziabad.

The above Scheme is for the present in respect of the land falling within the limits of the Ghaziabad Municipality and if the experiment proves a success, it can with suitable modifications be extended to the land outside Municipal limits also.